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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

\* \* \* \* \*

UNITED STATES OF AMERICA

v.

IMRAN ALRAI,

Defendant.

\* \* \* \* \*

No. 1:18-cr-192-JL  
December 11, 2019  
12:40 p.m.

EXCERPT TRANSCRIPT OF BENCH TRIAL DAY EIGHT  
TESTIMONY OF GREG NAVILOFF

BEFORE THE HONORABLE JOSEPH N. LAPLANTE

APPEARANCES:

For the Government: John S. Davis, AUSA  
Matthew Hunter, AUSA  
Cam T. Le, AUSA  
United States Attorney's Office

For the Defendant: Timothy M. Harrington, Esq.  
Timothy C. Ayer, Esq.  
Shaheen & Gordon PA

Court Reporter: Brenda K. Hancock, RMR, CRR  
Official Court Reporter  
United States District Court  
55 Pleasant Street  
Concord, NH 03301  
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I N D E X

WITNESS:                      DIRECT                      CROSS                      REDIRECT                      RECROSS

GREG NAVILOFF

Mr. Hunter

3

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By Harrington

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P R O C E E D I N G S

EXCERPT

THE CLERK: Good morning, sir. Actually, good afternoon. If you would like to step this way. If you could step into the witness box and remain standing. Please raise your right hand.

**GREG NAVILOFF**, having been duly sworn by the Clerk, was examined and testified as follows:

THE CLERK: And, for the record, please state your full name and spell your last name.

THE WITNESS: Greg Naviloff. N-A-V, as in "Victor," I-L-O-F-F. Naviloff.

THE CLERK: Thank you. Please be seated.

MR. HUNTER: Thank you. And, for the record, the defendant's experts are observing this testimony.

DIRECT EXAMINATION

BY MR. HUNTER:

Q. Good afternoon, Mr. Naviloff.

A. Good afternoon.

Q. How are you employed, sir?

A. I'm employed by RSM US LLP.

Q. What is RSM?

A. RSM US LLP is an accounting, tax and consulting firm that employs approximately 10,000 employees in the U.S. and 40,000 globally.

1 Q. And what is your role at RSM?

2 A. I lead the Financial Investigation Dispute Services Group  
3 for New England.

4 Q. Do you do forensic accounting work as part of your job  
5 duties?

6 A. Yes. As part of that I perform forensic accounting  
7 procedures.

8 Q. And what is "forensic accounting"?

9 A. "Forensic accounting" is a term that is used to describe a  
10 body of professional services that includes accounting analysis  
11 related to financial statement fraud, corruption and asset  
12 misappropriation. It typically involves asset tracing,  
13 quantification of losses. It includes the use of procedures,  
14 accounting and data analytic procedures to identify suspicious  
15 and unusual accounting activity and transactions.

16 Q. Thank you. Where did you work prior to RSM?

17 A. Prior to RSM I worked for another large international  
18 accounting firm, Deloitte, and prior to that -- I worked with  
19 them for several years, and prior to that I worked with several  
20 other larger consulting firms but, generally speaking, working  
21 with a group of individuals since Arthur Andersen's demise.

22 Q. And what were those other consulting firms?

23 A. Huron Consulting Group, Arthur Andersen, as I mentioned,  
24 and Grant Thornton briefly.

25 Q. What type of work did you do for those accounting firms?

1 A. Similar work. I was responsible for performing financial  
2 accounting and forensic accounting exercises.

3 Q. And before Arthur Andersen where did you work?

4 A. I worked for BDO Seidman in New York City, where I  
5 performed financial statement audits and attest services.

6 Q. What is BDO Seidman?

7 A. BDO Seidman is another large accounting firm, one of the  
8 larger U.S. firms that provides similar accounting, tax and  
9 consulting services.

10 Q. Sir, could you explain your education and any training or  
11 certifications you have related to forensic accounting.

12 A. Sure. I have a bachelor's degree, bachelor's of science  
13 in accounting. I am a certified --

14 MR. HARRINGTON: Judge, if I can interject just  
15 briefly?

16 THE COURT: Yes.

17 MR. HARRINGTON: If the government is attempting to  
18 lay a foundation to qualify him as an expert, I have no issue  
19 with that. They're just trying to give you additional  
20 information regarding his background. I just wanted to make  
21 sure the Court and the government knew I'm not objecting --

22 THE COURT: So, he may testify that he formed an  
23 opinion under 702. If there's other information you want me to  
24 know, Mr. Hunter, you can elicit it, but if you're just laying  
25 the foundation to get the opinions, you may proceed with the

1 opinions.

2 MR. HUNTER: Thank you, your Honor. I'll explore this  
3 a little bit more and then move on to the opinion.

4 THE COURT: Sure.

5 Q. Sir, could you continue to explain your certifications.

6 A. Sure. I'm a Certified Public Accountant. I've been a  
7 Certified Public Accountant for over 20 years, and I'm a  
8 Certified Fraud Examiner, certified in financial forensics and  
9 also accredited in business evaluation. The certifications  
10 with the exception of the CFE, Certified Fraud Examiner, are  
11 issued by the American Institute of Certified Public  
12 Accountants, and the CFE designation is by the Association of  
13 Certified Fraud Examiners.

14 Q. Are you also accredited in business valuation?

15 A. Yes. That's part of my AICPA certifications. Yes.

16 Q. And, briefly, since you've already been qualified as an  
17 expert, could you just describe, in general, your experience as  
18 a forensic accountant?

19 A. Over the years I've assisted numerous organizations, both  
20 large and small, with factfinding generally around allegations  
21 of financial statement fraud, corruption, asset  
22 misappropriation and employee misconduct. The factfinding and  
23 forensic accounting analysis has largely been used by the  
24 stakeholders within organizations; report those findings, those  
25 factfindings, to those stakeholders, which often includes the

1 board of directors, special committees convened on behalf of  
2 the organization, external enforcement agencies, as well as  
3 others with interests in the investigations.

4 Q. And do you have any experience in quantifying loss  
5 associated to fraud or other activity?

6 A. Yes. So, another area of analysis or needs typically when  
7 performing this factfinding is quantifying losses with the  
8 alleged activities, and that's done for both purposes of  
9 providing information to enforcement agencies as well as  
10 certain insurance policies, fiduciary -- fidelity claims,  
11 excuse me, from insurance providers which would cover theft  
12 from employees and other losses.

13 Q. And, finally, have you ever been appointed as an  
14 accounting expert?

15 A. I'm currently assisting on a matter in Federal Courts in  
16 the U.S. Virgin Islands as a court-appointed expert.

17 Q. And that's under Federal Rule of Evidence 706?

18 A. That's correct. Yes.

19 Q. And, generally, what financial analysis are you doing in  
20 that matter?

21 A. Sure. Yeah. So, that's a public matter. So, working  
22 with Judge Gomez and assisting the two parties to a pension  
23 plan dispute in the U.S. Virgin Islands where it required  
24 forensic accounting assistance, looking into historical pension  
25 plan contribution requirements, as well as what had been paid

1 by the employer, which is the government of the Virgin Islands,  
2 over to the pension plan administrator.

3 Q. And, finally, you've published -- have you published a  
4 number of articles and/or book chapters regarding forensic  
5 accounting and other accounting matters?

6 A. Yes. So, some of the recent publications include  
7 authoring a chapter in an economics damage handbook for  
8 forensic professionals and litigation support professionals.  
9 My chapter was focused on performing financial forensic  
10 examinations and some of the common procedures that are  
11 employed by forensic professionals when performing internal  
12 corporate investigations.

13 Q. And is the name of the book *The Comprehensive Guide to*  
14 *Economic Damages*?

15 A. Yes, that's the name of it.

16 Q. Sir, were you asked to conduct a forensic accounting  
17 analysis regarding an investigation of Imran Alrai?

18 A. I was, yes.

19 Q. Was RSM initially retained by United Way to conduct this  
20 analysis?

21 A. Initially retained through Commisso Law to assist the  
22 United Way. That's correct.

23 Q. And was that part of their internal investigation?

24 A. Yes. My understanding is that they had an issue that  
25 required investigation. The initial investigator was their



1 prior accounting firm, and they required an independent firm to  
2 come in and assist them.

3 Q. And as part of that did a team from RSM assist United Way,  
4 their outside counsel, in document collection?

5 A. There was a separate team, our digital forensic team, that  
6 worked alongside me and worked with Commisso Law to assist with  
7 the capture of the IT environment and examine the environment  
8 for separate purposes aside from the issue with regards to  
9 potential losses.

10 Q. Okay. And so, you mentioned forensically capturing  
11 documents. Was that information turned over to Commisso Law  
12 and an e-discovery vendor where information was extracted into  
13 an e-discovery database?

14 A. Yes, that's my understanding of the use of some of that  
15 data. Some of it. I don't know that all of it was loaded into  
16 the e-discovery platform. Some of it was tangentially related  
17 to matters unrelated to discovery and the concept of  
18 identifying facts related to the information, the  
19 user-generated information from the organization.

20 Q. Okay. So, let me break this down. So, some of the data  
21 was relevant to your loss analysis?

22 A. Yes.

23 Q. And that was the financial records from United Way. And  
24 there was also documents uploaded to an e-discovery database;  
25 is that correct?

1 A. That's correct. The user-generated files. That's my  
2 understanding.

3 Q. And those documents were used in the internal  
4 investigation and subsequently to produce records to the  
5 government as part of the criminal investigation; is that  
6 right?

7 A. Correct. Yes.

8 Q. Was there also a separate team at RSM separate from your  
9 team that was involved in an investigation at United Way  
10 regarding the issue of data breach?

11 A. Yes. It's the separate incident that I was alluding to.  
12 Yes.

13 Q. Okay. And did your team have access to any of the server  
14 images involved in that investigation?

15 A. I did not, no. My team did not.

16 Q. And can you explain that a little bit more?

17 A. So, my --

18 Q. Or was there a firewall in place?

19 A. Yeah. So, my digital forensic team has a lab based in  
20 Chicago, and images and/or copies, my understanding, were taken  
21 to that lab, and that's where those images would have resided.  
22 The access to files in that lab are restricted to the employees  
23 in that digital forensic group.

24 Q. So, sir, is it your understanding that United Way has not  
25 waived privilege as to the data breach investigation?

1 A. That's my understanding, yes.

2 Q. But just to be clear, that you and your forensic  
3 accounting team, in determining loss for United Way as part of  
4 the internal investigation and then subsequently when you were  
5 retained by the government, you have never seen or had access  
6 to any of the forensic images or data done by this separate  
7 data breach team; is that correct?

8 A. Correct. Not that I'm aware of.

9 Q. Is that because there is a firewall in place preventing  
10 you from accessing it?

11 A. Yeah, there's physical security preventing us from  
12 accessing it, and it wasn't necessary for, at least based on my  
13 understanding of the facts here, wasn't necessary for purposes  
14 of quantifying the loss.

15 Q. And so, you've never seen it or reviewed it in quantifying  
16 loss?

17 A. Correct.

18 Q. So, subsequent to your engagement with United Way, did you  
19 conduct a financial analysis and loss analysis for the United  
20 States Attorney's Office --

21 A. I did.

22 Q. -- in this criminal case?

23 A. Yes, I did.

24 Q. Could you describe, generally, what your analysis  
25 entailed?

1 MR. HUNTER: And, Ms. Sheff, could you pull up the  
2 summary exhibits for Mr. Naviloff. 924.

3 A. So, generally speaking, the calculations -- two  
4 calculations. The first analysis and calculation was based on  
5 an assessment of the loss to United Way based upon our or my  
6 review of the services that were being rendered, and those  
7 included certain services that were overbilled, duplicate  
8 billed or were not delivered.

9 Q. Okay. Did you do a separate analysis of Mr. Alrai's  
10 personal enrichment?

11 A. Yes. And then the second of those analyses, which were  
12 done in conjunction with one another, was an analysis based  
13 upon the records produced by the U.S. Attorney's Office that  
14 contained Aisa Consulting and DigitalNet's financial statement  
15 information as well as the personal tax returns of Mr. Alrai  
16 and all the supports, supporting documents from an accountant.  
17 Ms. Terry, I believe, is her name.

18 Q. So, sir, regarding your calculation of the loss to United  
19 Way, I think you mentioned you analyzed invoices and contracts.  
20 Is that --

21 A. Yes.

22 Q. So, what material was relevant to that analysis?

23 A. So, the materials and the procedures, generally speaking,  
24 we obtained all the invoicing activity that occurred, the  
25 universe of invoicing activity that occurred between DigitalNet

1 and United Way from inception through the termination of the  
2 relationship.

3 Q. Did you also review vendor invoices and contracts?

4 A. Yes. So, the invoices from DigitalNet as well as the  
5 contracts and service agreements between the parties were  
6 collected, as were other service agreements from other IT  
7 providers. We collected the disbursement records for United  
8 Way for purposes of analysis, and we also had access to the  
9 e-discovery materials to perform ad hoc searches as needed.

10 Q. Yes. And this e-discovery database, that's what we were  
11 talking about before?

12 A. Yes.

13 Q. And is it your understanding that the documents from that  
14 that your team viewed have been produced in this case?

15 A. Yes. That's my understanding, yes.

16 Q. And did you also review United Way financial statements?

17 A. There was limited review of United Way's financial  
18 statements as a whole. In part of that analysis I did observe  
19 some benchmarking that United Way did itself with respect to IT  
20 spend. Some of the other analysis that we did was with respect  
21 to understanding fixed assets and what was capitalized and IT  
22 costs for purposes of reporting or assisting the external  
23 auditors to understand the impact of the alleged asset  
24 misappropriation to the financial statements of the United Way.

25 Q. Sir, regarding your separate analysis of Mr. Alrai's

1 personal enrichment from the fraud, what records did you  
2 analyze?

3 A. The records analyzed there largely consisted of records  
4 turned over by the U.S. Attorney's Office, and they largely  
5 consisted of tax returns; they consisted of bank statement  
6 records for Mr. Alrai's various businesses; and they also  
7 included some detailed schedules, including Chase corporate  
8 credit card or what appeared to be Chase corporate credit card  
9 activity including spending and where it occurred and  
10 descriptions of what the spending related to at a fairly high  
11 level; and then there were other various notes in the files  
12 with respect to the accountant who prepared the taxes.

13 Q. Okay. So, those were Mr. Alrai's tax records from his  
14 accountant?

15 A. Yes. They appeared to be so, yes.

16 MR. HUNTER: All right. Ms. Sheff, could you go down  
17 to the slide 4. Let's start there.

18 Q. So, Mr. Naviloff, could you describe what we're seeing  
19 here in this slide, this summary of loss quantification?

20 A. Sure. Yeah. So, as I was mentioning earlier, part of the  
21 procedures that we performed was to take all of the invoices  
22 that had been paid. So, we matched the paid invoices from  
23 DigitalNet, and from the paid invoices we evaluated the various  
24 line items on those invoices. The various line items were  
25 placed into buckets consistent with the service agreements that

1 were in place. We also evaluated other service providers to  
2 identify any duplicate charges or -- excuse me -- duplicate  
3 services, other IT providers providing similar services, and as  
4 part of that analysis this is essentially the resulting  
5 analysis that came from that process.

6 Q. Okay. So, what is the total amount that United Way paid  
7 to DigitalNet?

8 A. So, out of the areas that -- or the total amount that we  
9 analyzed was \$6,768,295. So, that's the amount of the invoices  
10 that were paid.

11 Q. Okay. And we have two buckets here. One are the total  
12 amounts of invoices that you analyzed, and that service is  
13 related to infrastructure hosting virtual desktops, data  
14 management and high availability backups and office phone  
15 storage; is that correct?

16 A. That's correct. Yes.

17 Q. And I want to focus, for a moment, on the total amount not  
18 analyzed. Why did you not analyze -- or, first, what services  
19 didn't you analyze?

20 A. So, generally speaking, these are the non-reoccurring  
21 charges that appeared in the invoices. They in many instances  
22 relate to ad hoc services provided without an underlying  
23 service agreement or statement of work. Typically -- part of  
24 the recurring service was a charge for help desk and escalated  
25 support. It appears to be anything above and beyond that as

1 well as the initial setup of the items identified above in the  
2 areas that we did review. So, those would all be included down  
3 below here, as far as areas where individual consulting was  
4 happening on an ad hoc basis, time and material and/or a fixed  
5 fee basis, presumably these amounts were charged to United Way.

6 Q. So, included in the amounts charged by DigitalNet to  
7 United Way that you didn't consider in your loss analysis did  
8 it include the cost of hardware and software for setting up the  
9 servers and phone system?

10 A. Yes, that is correct.

11 THE COURT: All right, Counsel. We should take a  
12 break. We've been going about 95 minutes. Let's go off the  
13 record.

14 (Discussion held off the record)

15 (Recess taken)

16 THE CLERK: All rise for the Honorable Court.

17 THE COURT: Sir, you're still under oath. Mr. Hunter,  
18 you may proceed.

19 CONTINUING DIRECT EXAMINATION BY MR. HUNTER:

20 Q. All right. Mr. Naviloff, we were on slide 4 of Exhibit  
21 924. So, in terms of the categories that you analyzed --

22 MR. HUNTER: Ms. Sheff, could you pull up exhibit --  
23 strike that.

24 Q. Mr. Naviloff, are these services described in contracts  
25 that DigitalNet had with United Way?



1 A. Yes.

2 Q. And for these services, in particular, were you focused  
3 primarily on the Managed IT Services Agreement and the  
4 Telephony Agreement?

5 A. Yes. So, these relate to two agreements, a Managed IT  
6 Service Agreement and a cloud telephone agreement, and they  
7 were February of 2013 and, I believe, August of 2013,  
8 respectively.

9 MR. HUNTER: Ms. Sheff, could you put 300a on the  
10 screen, please.

11 MS. SHEFF: Would you like for it to be split screen?

12 MR. HUNTER: Sure.

13 Q. What is Exhibit 300a, Mr. Naviloff?

14 A. This is the February Managed IT Service Agreement that I  
15 just referenced associated with the infrastructure hosting  
16 virtual desktop and data management and high-speed backup.

17 MR. HUNTER: Ms. Sheff, can you scroll down to page  
18 11. It might be page 12 of the PDF but page 11 of the  
19 contract.

20 Q. So, here we see several services listed and priced out.  
21 So, in terms of what you analyzed and did not analyze, did you  
22 analyze the hosting and virtual desktops and data management  
23 categories of invoices?

24 A. Yes. So, it's the first three boxes on this pricing page.

25 Q. And where there's line items and invoices that you had not

1 analyzed we see there are other categories. Application. What  
2 does "OS" stand for in this context?

3 A. I think -- I believe operating systems.

4 Q. And is "DB" database management?

5 A. Correct. Yes.

6 Q. And then, "Onsite support, off-hour support, email and  
7 mobile device access and initial deployment." Were those all  
8 services that DigitalNet billed for that you did not analyze in  
9 your loss analysis?

10 A. Correct. You'll notice a footnote to this describing  
11 further costs that had not yet been quantified also part of  
12 that.

13 MR. HUNTER: And, Ms. Sheff, could you pull up Exhibit  
14 302.

15 Q. Is this the telephony contract that you mentioned from  
16 August of '13?

17 A. Correct.

18 MR. HUNTER: And, Ms. Sheff, could you scroll down. I  
19 think it's page 6. Go up one. Here we go.

20 Q. And does this summarize the services that DigitalNet was  
21 going to bill United Way for related to telephone services?

22 A. Yes, that's my understanding of this agreement.

23 Q. And did you find DigitalNet billing for most of these  
24 services in their invoices?

25 A. Yes, I did.

1 Q. And we'll get into this in more detail later. So, in  
2 terms of the categories that you did not consider, I think you  
3 said there was database management, operating system  
4 management, the cost of hardware, the cost of --

5 MR. HUNTER: You can bring down Exhibit 302. You can  
6 pull the slide show back up, Ms. Sheff.

7 Q. Did you also not consider the management of the phone and  
8 IT systems?

9 A. Correct. So, the management was the separate line item in  
10 the February 2013 agreement.

11 Q. What about costs associated with the implementation of the  
12 phone system?

13 A. That's excluded.

14 Q. Again, that was separately billed?

15 A. Separate.

16 Q. And building server environments and that sort of thing?

17 A. That's correct. The build-out and the initial setup costs  
18 were all separate from this analysis up here for the 3,524,000.

19 Q. All of those services were separately billed?

20 A. Correct, separated from my analysis. Some of them may  
21 have appeared on invoices but were separated out.

22 Q. They were separate line items?

23 A. Separate line items, yeah.

24 Q. And is the total cost for the services that you did not  
25 analyze in your loss analysis about \$3.24 million?

1 A. That is accurate. Yes.

2 THE COURT: What does "not analyzed" mean?

3 MR. HUNTER: I'm getting to that, your Honor. I'll  
4 ask some questions.

5 Q. So, when I say "not analyzed," it was "not analyzed," what  
6 does that mean, Mr. Naviloff?

7 A. So, these are charges that appeared on invoices. Many of  
8 these were ad hoc, so they were unassociated with either  
9 statement of works or any sort of service agreements. These  
10 were charges for -- largely charges for special projects, such  
11 as website development; they were for other types of hosting  
12 arrangements. And there was also charges for categories such  
13 as the help desk, remote IT support after hours, and various  
14 hardware and software purchases.

15 Q. And so, when we've been talking about not analyzing them,  
16 Mr. Naviloff, you did analyze them to the extent that you  
17 determined --

18 A. I quantified -- yeah.

19 Q. That you quantified the costs of those services?

20 A. Yeah. Just to clarify, so unlike the areas above which  
21 were analyzed, the 3.5 million, these were areas where there  
22 was no way of easily identifying the underlying costs to  
23 deliver these services, and that's because, typically, in a  
24 professional services organization you're billing by the hour,  
25 it's time and material; or at least there's records of the

1 hours so that you understand how much money you made or didn't  
2 make on a specific project for a specific client.

3 In this context we looked for and searched for any  
4 available information that could help us understand and  
5 identify the level of effort that went into these discrete  
6 projects. However, we didn't have the detailed time records;  
7 we didn't have any sort of budget actuals with regards to the  
8 projects; we didn't have any of the preliminary cost estimates  
9 that would allow us to understand what the related costs were  
10 and who was performing some of that service.

11 Q. So, Mr. Naviloff, were these services -- did you assume  
12 that DigitalNet provided the value that they charged for in  
13 rendering those services?

14 A. For purposes of analysis, yeah, we assumed value was  
15 rendered.

16 THE COURT: You assumed what?

17 THE WITNESS: That value was --

18 THE COURT: "Value was rendered"?

19 THE WITNESS: Rendered or service received, yeah.

20 Q. Again, so essentially for your loss analysis you're  
21 assuming no loss for about \$3.24 million related to these  
22 services that you were able to identify?

23 A. That is correct.

24 Q. So, you do not express an opinion whether or not  
25 DigitalNet provided value for those services; you're assuming

1 value?

2 A. Assuming. This is an assumption.

3 Q. So, for the identified services that you did analyze in  
4 determining a loss figure, why were you able to break these out  
5 and analyze these?

6 A. These were services where we found underlying or other  
7 entities providing the underlying service for the benefit of  
8 United Way. So, with the top three the vendor providing  
9 underlying services that was passed through DigitalNet, that  
10 was an entity called CloudConnect initially, and that switched  
11 over to Insight. So, there was two vendors that, based on  
12 review of information that was made available to us, that had  
13 either invoices or service arrangements for which we could --  
14 that I was able to connect to these, the delivery of these  
15 services.

16 Q. So, in other words, you were able to -- and, Mr. Naviloff,  
17 please, we have a court reporter. Speak clearly into the  
18 microphone.

19 A. Yes. Sorry.

20 Q. And try to speak slowly. And also, as we're talking,  
21 let's try not to talk over each other so we can create a clear  
22 record.

23 So, for these services you were able to identify an  
24 underlying vendor that was providing those services?

25 A. That's correct. For the office phone services it was

1 SIP.US.

2 Q. So, you were able to compare the costs that DigitalNet was  
3 charging for those services against the amount that the vendor  
4 was charging for those services?

5 A. Yes. An apples-to-apples comparison of the underlying  
6 vendor, what they charged versus what DigitalNet in turn  
7 charged United Way.

8 Q. Okay.

9 THE COURT: So, you determined the markup.

10 THE WITNESS: The markup. Correct.

11 MR. HUNTER: Ms. Sheff, could we go to slide 3, one  
12 slide up.

13 Q. Sir, what is this?

14 A. This is a summary, similar format. You'll see the same  
15 amount of \$3.5 million, 3,524,000. That relates to the revenue  
16 to DTS, payments made by United Way, and that was the amount  
17 that was analyzed as part of my loss calculation. Here I take  
18 into account payments that were made to two of the three  
19 vendors that I just mentioned.

20 Q. And, sir, why isn't Insight listed as a vendor here?

21 A. Insight isn't listed here, as Insight ultimately was paid  
22 by United Way. No payments were made that we could observe by  
23 DigitalNet to Insight. Insight was introduced, based upon the  
24 records I've seen, as a new vendor sometime around, I believe  
25 it was November of 2015, upon which the costs for the services

1 rendered by Insight, which were the infrastructure hosting and  
2 virtual desktop, were paid directly by United Way to Insight.

3 Q. And yet in your review of DigitalNet invoices did  
4 DigitalNet continue to bill United Way for those same services?

5 A. Yes, they did.

6 Q. Okay. And so, we'll get into some of your underlying  
7 analysis, but the bottom line, what was the difference between  
8 the cost that DigitalNet charged United Way and that United Way  
9 paid DigitalNet for the services versus what the vendor charged  
10 DigitalNet for those services?

11 A. Sure. So, in this instance we -- I identified \$3,524,000  
12 in revenues to DTS. The costs associated with delivering those  
13 services, the direct costs, were 327,000 that I could calculate  
14 based upon DTS's own records, payments to those vendors.

15 Now, for SIP.US there were a few months at the start  
16 of the SIP.US relationship as well as some time period at the  
17 end of the SIP.US relationship where we believed services were  
18 being or continued to be provided by SIP.US and had to estimate  
19 those.

20 Q. We'll get into that when we talk more about SIP.US.

21 A. Sure. So, adding the 327,000 to the 20,000, removing  
22 those from the 3.5 million results in a calculation of  
23 \$3,176,851.

24 Q. So, a 914 percent markup overall?

25 A. Yes.



1 MR. HUNTER: Ms. Sheff, could we go to slide 5,  
2 please.

3 Q. So, let's talk about the phone services. You started  
4 discussing this. Does this slide summarize your loss  
5 quantification for the phone services?

6 A. Yes. This is specific to phone service and the services  
7 that SIP.US provided.

8 Q. Okay. And so, we have -- how did you arrive at this  
9 number for the monthly recurring charges for the phone  
10 services?

11 A. So, monthly invoices rendered by DTS to United Way  
12 contained a specific line item charges for office phone  
13 services, and I totalled those charges from those invoices in  
14 which those invoices were paid, and they totalled \$852,419.

15 Q. How did you come up with the amount paid to SIP.US by  
16 DigitalNet?

17 A. So, the amount paid by SIP.US, this includes that  
18 bifurcated amount shown on the earlier slide. So, the first  
19 tranche of that was the \$24,642, that first SIP.US line, and  
20 that translates to payments that I identified within DTS's  
21 records that were made available by his accountant. I believe  
22 those related primarily to charges made to his -- or made  
23 against his credit card for services.

24 Q. Let me stop you there. So, the DigitalNet credit card  
25 paid SIP.US?

1 A. That's my understanding. Yes.

2 Q. And then the estimated vendor payments, how did you arrive  
3 at that figure?

4 A. So, that took a little bit more effort. So, in those  
5 instances, looking back at the invoices by DTS to United Way,  
6 there was an indication of the number of phone lines and users.  
7 So, I recalculated, based upon the number of users, the likely  
8 cost of the SIP.US invoice to DigitalNet, based upon the number  
9 of users during those missing time periods.

10 Q. Okay. So, you didn't have any records showing that  
11 DigitalNet actually paid for the phone services, but you  
12 assumed for your analysis that DigitalNet did provide a phone  
13 service and that they paid for it?

14 A. Yes. We couldn't locate that 20,000 in payments in their  
15 accounting records.

16 Q. Okay. And so, that brought the total cost to DigitalNet  
17 to almost \$45,000?

18 A. That's correct.

19 Q. All right. And let's talk about, again, the costs related  
20 to the phone service that you did not include in your loss.  
21 Could you explain -- so "DTS phone equipment purchase and  
22 setup," was that a separate line item in the DigitalNet  
23 invoices?

24 A. So, the "DTS phone equipment purchase and setup," that is  
25 a combination of several invoices that DTS had issued to United

1 Way, and if you look back at the earliest agreement, which is  
2 the February 2019 agreement, there's discussion of voice over  
3 internet protocol and telephone services and that essentially  
4 being billed at some point in the future in the setup charges.  
5 So, I guess fast-forward to August of 2013, where there was a  
6 separate SOP and presumably separate procurement of the phone  
7 system by United Way independent from the procurement that  
8 occurred prior to that. In that agreement, that second  
9 agreement, there is some indication of the costs associated  
10 with setup, and then these are separate invoices that followed  
11 that August 2013 agreement, where additional costs were  
12 invoiced to United Way.

13 Q. Okay. So, let me see if I understand what you just said.  
14 Are you saying that you looked at DigitalNet invoices to United  
15 Way and for phone equipment purchase and setup DigitalNet  
16 billed and United Way paid about \$219,000?

17 A. That is correct.

18 Q. Okay. And you also excluded costs related to application,  
19 operating system management, and we'll take a look in a minute  
20 at the contract, but did that include in the contract telephony  
21 consulting and management services?

22 A. Yes, it did. So, that's a separate charge that appears  
23 both in the service agreement, and then we found, I identified  
24 as a monthly invoice amount that was charged to United Way.

25 Q. Okay. So, in total there's \$435,000, roughly, related to

1 the ongoing maintenance of the phone system, the purchase and  
2 setup of the phone system that you're assuming value was  
3 provided?

4 A. Yeah. And that's a high estimate. The application OS  
5 included many other things other than the telephone, consulting  
6 and management. So, unable to allocate the 216,000 to just the  
7 one line item.

8 Q. Understood. In addition, there was IT help desk services  
9 at United Way that were not included?

10 A. Yes. In addition to this there was IT help desk and  
11 escalation services that, presumably, at least according to my  
12 tech team that was part of -- technology consulting team that  
13 was part of my team conveyed that they would be assisting. So,  
14 essentially SIP.US offers the root service, which then gets  
15 configured as part of the setup costs.

16 Q. Okay. So, the IT help team that is embedded at United Way  
17 and the costs charged for that, you're assuming United Way  
18 received value for that?

19 A. Yes.

20 Q. And any services they provided in maintaining and managing  
21 the phone system, you're assuming that United Way received  
22 value for that?

23 A. Yes.

24 MR. HUNTER: All right. Could we go to the next  
25 slide, please, Ms. Sheff. Actually, let's stay on this for a

1 minute.

2 Q. Just going through the numbers, so when you take the  
3 monthly recurring fee for phone services from DigitalNet and  
4 subtract out the cost related to that monthly fee, not the  
5 other phone costs, what was the gross markup?

6 A. So, the gross markup here is \$807,462.

7 MR. HUNTER: Okay. Next slide, please, Ms. Sheff.  
8 Next one.

9 Q. Is this an example of the DigitalNet phone services  
10 invoice?

11 A. Yes, it is.

12 Q. And can you explain what we're seeing in each of these  
13 lines.

14 A. So, the United Way has several offices, and this is a  
15 breakdown of the number of phone lines by office. So, if you  
16 take the Lowell office, for example, it says "Lowell office  
17 phone service 19." "19" represents the number of lines,  
18 telephone lines. In accordance with the underlying service  
19 agreement, telephone service agreement, they were to be charged  
20 at 70 a line. So, 70 times 19 gets you a total amount shown to  
21 the right there of \$1,330.

22 Q. Okay. And there's also this -- "DID" is retention fee?

23 A. Yeah. In addition to each of the office charges for  
24 per-line services, you also see DID charges, which is also  
25 consistent with what is found in the underlying service

1 agreement.

2 Q. And then there's, it looks like, tax and regulatory fee,  
3 about \$1,000?

4 A. Yes. And that's an amount that could not be tied back to  
5 the service agreement. However, we do see charges in SIP.US  
6 for federal, state and local regulatory fees, although less  
7 than that.

8 MR. HUNTER: Okay. Could we go to the next slide.

9 Q. So, this is an example of a SIP.US invoice. It's dated  
10 August of 2018. So, is this after Mr. Alrai left United Way?

11 A. Yes. We became aware of the SIP.US relationship after  
12 Alrai departed, and our investigation team spoke with  
13 Mr. Meyers and sought to obtain a copy of the invoice for  
14 SIP.US, which was the telephone service provider. So, this is  
15 the only invoice we were able to obtain at the time of our  
16 investigation.

17 Q. Okay. So, is this the first invoice after Mr. Alrai left  
18 that SIP.US issued after Mr. Meyer was able to get the account  
19 into United Way's name?

20 A. Correct. Here you can see the "Bill to" had changed over  
21 to United Way. Correct.

22 Q. We see an invoice total of about \$1,000?

23 A. That is correct.

24 Q. And is that roughly consistent with the amount that you  
25 saw DigitalNet paying SIP.US in looking at their records?

1 A. Historically, yes. It varied. As you can see to the left  
2 here on the quantity column in this invoice, it's a  
3 quantity-based billing, and you have a red box around the 187,  
4 which, once again, indicates the lines that were being charged  
5 at a unit price of \$1 per line.

6 Q. Okay. So, where they're charging a dollar a line,  
7 DigitalNet is charging a little bit more; is that right?

8 A. The dollar is only part of the charge here. There's trunk  
9 charges and other charges. So, the average cost per line is  
10 higher than the dollar, but to that point it was significantly  
11 higher.

12 Q. So, how did you -- once you had this pricing information  
13 and DigitalNet's payment information, how did you compare this  
14 against what DigitalNet was charging?

15 A. So, we added the total amount that we believe was paid to  
16 SIP.US with the total amount that United Way paid for those  
17 services that were charged by DigitalNet. So, for this one  
18 month, as an example, the pricing was approximately -- would  
19 have been approximately 13,000. We utilized the pricing by  
20 DigitalNet and multiplied 187 lines by \$70. So, that  
21 represents a markup here for this one month of approximately  
22 1,300 percent.

23 MR. HUNTER: Could we go to the next slide, please,  
24 Ms. Sheff.

25 Q. Could you explain this slide to the Court, Mr. Naviloff.

1     A.     This slide here contains excessive billing over time, and  
2     it includes three lines.  So, the top line is the line  
3     representing the amount paid per year by United Way to  
4     DigitalNet; the bottom line, the blue line, that represents the  
5     amount that was paid by DigitalNet to SIP.US; and the  
6     difference between those two lines is the amount in which  
7     DigitalNet retained as profits associated with this resell  
8     agreement.

9             MR. HUNTER:  Ms. Sheff, could you please pull up  
10    Exhibit 302 -- actually, we can go here.

11    Q.     So, how do you know, Mr. Naviloff -- we're looking here  
12    at -- is this an excerpt from Exhibit 302, the telephony  
13    services agreement?

14    A.     Yes, it is.

15    Q.     Okay.  And so, how do you know that you're comparing  
16    apples to apples here, that the cost per line that DigitalNet  
17    is charging corresponds to what they're paying SIP.US?

18    A.     So, the costs here are laid out in easily readable format,  
19    that the per line fee, the managed cloud telephony service  
20    agreement is \$70, right?  And then there's also incoming calls,  
21    and then it's also laid out easily with DIDs and other charges.  
22    So, these line up nice and neatly with what SIP.US was charging  
23    for these services.

24    Q.     Did you see any evidence that either SIP.US or DigitalNet  
25    was charging the \$900 high-speed circuit?



1 A. So, that was the one line item included in this service  
2 agreement where I was unable to trace that dollar amount into  
3 any invoices that were issued by DigitalNet to United Way.

4 Q. And let's just assume, for a moment, that the \$900 was  
5 baked into that. Obviously, this is not the way the contract  
6 was set up, but let's assume that \$900 DigitalNet was providing  
7 it. They just didn't break it out in their invoice and  
8 included it in the \$70 per month fee. Would that come close to  
9 explaining the \$800,000 markup?

10 A. No, it would not.

11 MR. HUNTER: Ms. Sheff, could you go to the next  
12 slide, please.

13 Q. Is this showing the one-time fees that are laid out in the  
14 contract?

15 A. Yes. So, the top section of the managed cloud telephony  
16 service has four line items that were all listed as one time.  
17 That amount then seemed to be fairly consistent with other  
18 payment schedules in our own analysis of invoicing activity  
19 that occurred from 2013 through 2018.

20 Q. And it looks like here there's about a \$100,000 difference  
21 between what the contract says they charged and what DigitalNet  
22 actually charged. But did you include that \$100,000 in the  
23 loss figure?

24 A. No, I did not. So, looking at that agreement, it looked  
25 like there was an initial setup cost, but in 2014 you can see

1 after that initial setup there was another approximately  
2 78,000. I didn't analyze that, as mentioned earlier in my  
3 testimony, as these were one-time amounts for which the level  
4 of documentation support wasn't available.

5 THE COURT: I'm not following the -- hold on a minute.  
6 That arrow on top under the cost box, it looks like it's only  
7 pointing to the top item, the setup and customized virtual  
8 product cost.

9 THE WITNESS: Yeah. That should be pointing to all  
10 four.

11 THE COURT: All four?

12 THE WITNESS: Yeah, correct. Good observation.

13 THE COURT: Yup. And I need you to explain it again.

14 THE WITNESS: Yup. Sure. So, the top box here, the  
15 four items that are in red, the setup and virtual private PBX  
16 of 85,000, that's a one-time. And then the Cisco --

17 THE COURT: That's close to a million bucks there.  
18 Oh, no. Okay.

19 THE WITNESS: These are \$100, and they are supposed to  
20 be multiplied by per set.

21 THE COURT: I was several zeros off.

22 THE WITNESS: Yeah. So, you get the quantity of per  
23 sets on the other tables.

24 THE COURT: Now I totally understand.

25 THE WITNESS: Okay.

1 THE COURT: Okay. I'm sorry.

2 MR. HUNTER: No problem, your Honor.

3 Q. And so, again, this is \$100,000 that you're assuming  
4 DigitalNet provided value, even though it's a slight  
5 discrepancy from what was stated in the contract?

6 A. Yes.

7 MR. HUNTER: Next slide, please.

8 Q. You had mentioned this line in the Managed IT Services  
9 Agreement, and, again, this is page 11 of Exhibit 300a, or page  
10 12 of the PDF, page 11 as it states on the document. So, as  
11 part of the OS and DB management was there a telephony  
12 consulting fee?

13 A. Yes. So, this is, as mentioned earlier, the application  
14 line which we see monthly from inception, from February 2013  
15 through the termination of the agreement, which I believe was  
16 in the June of 2018 time period we see this charge.

17 MR. HUNTER: Okay. Ms. Sheff, could you just pull up  
18 Exhibit 309, please, page 7. Just pull up a couple of  
19 examples.

20 Q. Okay. And so, here is this an example of a DigitalNet  
21 invoice, Mr. Naviloff?

22 A. Yes, it is.

23 MR. HUNTER: Ms. Sheff, could you just zoom in on the  
24 things that are being charged here.

25 Q. And so, here we see this is that applications database and

1 OS management?

2 A. Yes. This is an example of one month's charge for the  
3 application database and OS management which, per the service  
4 agreement, would include telephone.

5 MR. HUNTER: Ms. Sheff, could you just flip over to  
6 page 89, please. I'm just picking two invoices toward the  
7 beginning and end here.

8 Q. And, again, this has the same cost applications database  
9 and OS management?

10 A. Yes. Once again, you can see the line one, two, three,  
11 four, five, six down, 3,500. This is another example.

12 Q. You saw this charge recur monthly?

13 A. Every month.

14 Q. And, again, you're assuming that DigitalNet is providing  
15 value for these services?

16 A. Yes. It's an assumption.

17 MR. HUNTER: All right. And, Ms. Sheff, can you pull  
18 up 300a, page 11 again. I just want to take one -- since we've  
19 been talking about that line item, let's just see what it  
20 involved. Sorry. 12. One more page down. Okay.

21 Q. So, this involves compliance, consulting, mobile device  
22 management and support and other -- basically other ways to  
23 support and manage the services that DigitalNet was providing;  
24 is that right?

25 A. Correct. That's what's stated here, yes.

1 MR. HUNTER: Okay. So, Ms. Sheff, if you could go to  
2 slide 13.

3 MS. SHEFF: Page 13?

4 MR. HUNTER: Sorry. Back to 924, page 13.

5 Q. All right. So, after analyzing the telephony services  
6 where you found roughly an \$800,000 markup, did you also do an  
7 analysis of the markup associated with infrastructure, virtual  
8 desktops and high-availability backup?

9 A. Yes, I did.

10 Q. How did you analyze that?

11 A. Similar to the telephone analysis, this one, where  
12 telephone was largely related to SIP.US or entirely related to  
13 SIP.US, this analysis for infrastructure, virtual desktop, and  
14 high availability, geographically disbursed backup relates back  
15 to CloudConnect. So, with respect to identifying the universe  
16 of invoices that were paid by United Way, I broke out the  
17 amounts related to the specific services that were being paid  
18 or provided by CloudConnect, and the total of those three  
19 services, infrastructure hosting, virtual desktop and data  
20 management and high-availability backup storage, amounts to  
21 \$2,672,090, and those were established on Exhibit 1b of my  
22 report.

23 Q. And, again, there's a category of loss that you did not  
24 consider or where you assumed that DigitalNet provided value.  
25 Were these also costs broken out in the invoices?

1 A. Yes. Similar to phone system setup, I observed setup  
2 costs, ad hoc invoices for setup of both the infrastructure and  
3 the virtual desktop as well as a general charge for vendor  
4 deployment setup fees, and this would include equipment  
5 purchase setup and implementation costs.

6 Q. All right. And there's also the cost, the large item  
7 cost, of the IT help desk where you're, again, assuming that  
8 United Way got value for the help desk services?

9 A. Yes. Help desk escalation and then overall \$3,500 a month  
10 charge that we referred to previously that are not part of this  
11 analysis.

12 Q. And you are assuming that United Way got value from  
13 DigitalNet for the setup and implementation of their  
14 infrastructure hosting and virtual desktop environments?

15 A. Yes, that's correct, an assumption.

16 Q. And you mentioned initially DigitalNet was contracted with  
17 a provider or was using a provider, CloudConnect, to provide  
18 these services?

19 A. Yes, that's correct.

20 Q. All right. And did you look at documents, a contract and  
21 other documents, between CloudConnect and Mr. Alrai in  
22 analyzing the services that CloudConnect was to provide?

23 A. Correct, to identify the services CloudConnect was  
24 providing and the parallel services that Insight was providing  
25 -- or, excuse me -- that CloudConnect -- DigitalNet was

1 providing to United Way or claiming to provide.

2 MR. HUNTER: So, can we please -- actually go to the  
3 next slide, please, Ms. Sheff.

4 Q. Okay. So, is this a comparison of language from the  
5 DigitalNet Managed IT Services Agreement, that's Exhibit 300a,  
6 and a CloudConnect platform specifications document received by  
7 Imran Alrai in 2012?

8 A. That's correct. So, 19, approximately 19 items on the  
9 CloudConnect platform specification sheet. This is four of  
10 those items, high availability being more relevant to the issue  
11 at hand here, however, and this is just an example of the  
12 language. The others had similar patterns of replacing  
13 CloudConnect with DigitalNet where appropriate. Generally  
14 speaking, this is just indicative of DigitalNet relying upon  
15 CloudConnect to provide these services as specified in the  
16 agreement with United Way.

17 Q. So, is it fair to characterize what you said this way,  
18 just to explain it another way: that you saw multiple examples  
19 in the Managed IT Services Agreement where DigitalNet was  
20 essentially copying and pasting language from CloudConnect?

21 A. So, yes, the CloudConnect language per the specification  
22 sheet was used within the DigitalNet agreement with United Way.

23 Q. And were there other examples where language from the  
24 CloudConnect contract was used in the DigitalNet agreement with  
25 United Way?

1 A. Yes. This is four of 19 categories where the other had  
2 similar patterns.

3 MR. HUNTER: Ms. Sheff, can you pull up I think it's  
4 415b, which is in evidence as part of Exhibit 415.

5 Q. Is this an email from October 4th, 2012 from CloudConnect  
6 to imran.alrai@gmail.com?

7 A. Yes.

8 Q. All right. And it's saying, "This outlines the security,  
9 business continuity and performance features of the  
10 CloudConnect platform." Do you see that?

11 A. Yes.

12 MR. HUNTER: All right. Ms. Sheff, can you go to the  
13 next document, 415c.

14 Q. Is this one of the documents you analyzed in comparing the  
15 language?

16 A. Correct. This is the document that that language came  
17 from for comparative purposes.

18 MR. HUNTER: All right. Ms. Sheff, could you please  
19 pull up Exhibit 415a.

20 Q. Mr. Naviloff, what document is this?

21 A. This is the partnership agreement between CloudConnect and  
22 DigitalNet. Or, actually, it's a consulting, I believe this  
23 one is.

24 MR. HUNTER: Can you scroll down, Ms. Sheff? Again,  
25 next page. Go up one page to where you see the handwriting.



1 Q. So, here we see --

2 A. Yes. Aisa Consulting. Yes.

3 MR. HUNTER: Ms. Sheff, could you zoom in on "Service"  
4 under the definitions section.

5 Q. So, how does this contract define "service," Mr. Naviloff?

6 A. "'Service' shall mean CloudConnect's information  
7 technology service, commonly known as virtual desktop  
8 infrastructure, virtual private servers and other  
9 software/hardware technologies necessary to provide virtual IT  
10 infrastructure as a service to small and mid-sized businesses."

11 MR. HUNTER: Thank you. And, for the record, this has  
12 already been admitted as part of 415. It was just on a disc of  
13 other documents.

14 And could you go to page 21, please, Ms. Sheff.

15 Q. And, again, this is describing CloudConnect host IT  
16 services, commonly known as virtual desktop infrastructure,  
17 remote desktop services, and virtual private servers?

18 A. Correct.

19 MR. HUNTER: Ms. Sheff, could you pull up exhibit --  
20 actually, we can do a side-by-side. Pull up 300a, page 5. Can  
21 you go to page 5.

22 Q. Again, here we see that DigitalNet will provide desktop as  
23 a service, virtual desktops?

24 A. Correct.

25 Q. And in the CloudConnect agreement --

1 MR. HUNTER: And can we go to page 11, please, of  
2 300a, Ms. Sheff. Page 12. Okay. And could we go to 415a,  
3 page 23, I believe. Or, actually, this is it right here.

4 Q. So, sir, here, under the CloudConnect agreement, under  
5 "High availability," what does it say? If we need to, we can  
6 zoom in on it.

7 A. So, "high availability" is defined here as, "CloudConnect  
8 shall operate at least two geographically separated hardware  
9 instances of the CloudConnect platform, a primary instance and  
10 a disaster recovery instance. CloudConnect will replicate  
11 client data to the disaster recovery instance at commercially  
12 reasonable intervals. In the event of a total or partial  
13 failure of the primary instance or any critical subsystem  
14 thereof which will require -- "

15 Q. Thank you, Mr. Naviloff.

16 MR. HUNTER: Ms. Sheff, can you zoom in on the hosting  
17 here.

18 Q. And, likewise, DigitalNet is providing geographically  
19 disbursed high-availability backed environment?

20 A. That's correct.

21 Q. And it looks like we also have managed system and nightly  
22 and weekly backups in the DigitalNet agreement?

23 A. Yes, that is correct.

24 Q. Going back to the CloudConnect agreement, is CloudConnect  
25 also providing nightly backups?

1 A. Yes. Section 9 states, "Nightly backup." I'm happy to  
2 read it, if you would like.

3 Q. That's fine. That's fine.

4 MR. HUNTER: And, Ms. Sheff, could you zoom in on  
5 number 10, and right down to the bottom there.

6 Q. So, this is in the CloudConnect agreement regarding  
7 retention of backup data?

8 A. Correct.

9 Q. Can you read that, please, Mr. Naviloff?

10 A. Sure. So, the retention of backup data in paragraph 10,  
11 10.1: "CloudConnect will hold subscriber backup data for at  
12 least the lessor of, one, the termination of this agreement or,  
13 two, in accordance with the following retention policy: 7 most  
14 recent nightly backups or 10 most recent weekly backups."

15 Q. Thank you.

16 MR. HUNTER: And, Ms. Sheff, could you go to page 5 of  
17 the DigitalNet agreement. Actually, no. One more up. Sorry.  
18 Can you zoom in on this, please.

19 Q. Can you just read down to the second bullet there,  
20 Mr. Naviloff.

21 A. "DigitalNet will manage the backup in accordance with the  
22 following retention policy." It's similar to the last slide.  
23 "7 most recent nightly and 10 most recently weekly backups."

24 Q. Okay. Thank you. So, based on your team's review of  
25 these documents and others that were provided, what did you

1 conclude about the services CloudConnect was providing  
2 vis-à-vis what DigitalNet was providing to United Way?

3 A. For the monthly recurring services, based upon my  
4 observations and reviews, it was the underlying service  
5 provider for those services.

6 Q. So, is CloudConnect providing virtual desktops and hosting  
7 for Aisa Consulting and, ultimately, United Way?

8 A. Yes, some level of hosting as well as virtual desktop.

9 Q. And were they also --

10 A. And backup.

11 Q. And were they providing nightly backups?

12 A. Per that language, yes.

13 Q. Okay. And were they providing a geographically diverse  
14 high availability backup environment?

15 A. Yes.

16 Q. Now, the CloudConnect agreement specifically does not  
17 provide for on-site support; is that right?

18 A. It does not.

19 Q. But DigitalNet was providing that at United Way?

20 A. That is correct.

21 Q. Is that your understanding?

22 A. Yes.

23 MR. HUNTER: Okay, Ms. Sheff, could we go back to 924.  
24 Could you go to slide 13.

25 Q. Okay. So, again, I think we've discussed this, but did

1 DigitalNet bill United Way separately for technical support,  
2 server setup and maintenance related to these cloud hosting  
3 services?

4 A. Yes. As highlighted in this yellow box, part of my  
5 analysis was to capture in rough dollar magnitudes the setup  
6 and equipment purchases where it was described in sufficient  
7 detail within the invoices issued by DigitalNet to United Way.

8 Q. So, when you were comparing the costs that DigitalNet paid  
9 CloudConnect versus what United Way paid DigitalNet, you  
10 excluded costs related to technical support, server setup and  
11 maintenance; is that correct?

12 A. That is correct. Yes.

13 Q. All right. Could we go to slide 15, please. Okay. Can  
14 you explain this slide to the Court.

15 A. So, this is a snapshot summary for CloudConnect-related  
16 services of the flow of funds, and the flow of funds begins in  
17 the right here from United Way, where they paid 1.5 million,  
18 you can see in the bottom in red, to DigitalNet; and that 1.5  
19 million, 1.2 million was withheld by DigitalNet, and the  
20 remaining 303,000, approximately, was passed along to  
21 CloudConnect. So, this evidences the payment flow, which are  
22 the green arrows, from United Way down to CloudConnect.  
23 DigitalNet sat between these two parties.

24 Q. So, after you identified sort of this apples-to-apples  
25 comparison, United Way paid DigitalNet 1.5 million, and

1 DigitalNet turned around and paid CloudConnect 303,000 for the  
2 same services?

3 A. That's correct.

4 Q. You said at some point the vendor providing hosting and  
5 virtual desktop services for United Way changed?

6 A. Yes, that's correct. In I believe it was November of 2015  
7 we identified Insight as a vendor to United Way through United  
8 Way's own records.

9 Q. And is that because United Way was paying invoices to  
10 Insight?

11 A. The invoices were paid directly to Insight as the service  
12 provider, not to DigitalNet -- via DigitalNet. Excuse me.

13 Q. So, did the nature of DigitalNet's overcharge change when  
14 the vendor providing these services changed?

15 A. This is what I describe in my report as duplicative  
16 charging. So, this scenario here with CloudConnect is the  
17 overcharge of 1.2 million. So, beginning after this time  
18 period with Insight the amounts paid by United Way were paid  
19 twice, so duplicate billing.

20 Q. Okay. And so, despite the fact that United Way is now  
21 paying Insight, did the payment structure between DigitalNet  
22 and United Way change?

23 A. No. The payment terms per the service agreement that was  
24 entered in February 2012 -- or 2013 were unaltered. The  
25 payment amounts remained consistent in accordance with that

1 underlying service agreement.

2 Q. And how is it that you know that Insight was providing  
3 infrastructure and hosting services and virtual desktop  
4 services?

5 A. Sorry. Repeat the question.

6 Q. How do you know what services Insight was providing?

7 A. So, within the invoices that Insight provided there was no  
8 underlying service agreement with Insight. However, the  
9 invoices with Insight were fairly descriptive as of the  
10 services that they were providing to United Way.

11 Q. And John Meyer testified to this, but did you also learn  
12 from John Meyer that Insight billed for hosting services  
13 provided by a company called OVH?

14 A. Yes. So, my understanding is Insight is in and of itself  
15 a reseller.

16 Q. So, OVH is the actual company providing the hosting  
17 services?

18 A. That's my understanding from discussions with Mr. Meyer.

19 MR. HUNTER: Okay. So, Ms. Sheff, can you pull up  
20 again 300a, page 11, on one side of the screen and Exhibit 416,  
21 we'll start with page 9, on the other.

22 MS. SHEFF: 416?

23 MR. HUNTER: 416.

24 MS. SHEFF: It's not coming on.

25 MR. HUNTER: I can move on.

1 MS. SHEFF: Maybe it's on CDs.

2 MR. HUNTER: Oh. I'll move on. So, actually, can we  
3 pull up, I guess, slide 17?

4 MS. SHEFF: Of 924?

5 MR. HUNTER: Yes, please.

6 Q. Is this an excerpt, again, of an Insight invoice, which is  
7 part of Exhibit 416, and a DigitalNet invoice, which is part of  
8 Exhibit 309?

9 A. Yes, this is. Correct.

10 Q. Okay. And this charge for \$19,200 infrastructure as a  
11 service and hosting, do you see that, Mr. Naviloff?

12 A. \$19,200, yes, infrastructure as a service and hosting.

13 Q. And are those services -- we've looked at them earlier,  
14 but are those services laid out in Exhibit 300a on page 11?

15 A. Yes. They're labeled as host-related hosting services.

16 Q. And here we see on the Insight invoice -- can you describe  
17 how it is that this is providing hosting services or how it is  
18 describing hosting services?

19 A. Correct.

20 Q. Could you go through it, please?

21 A. Yeah, sure. I'll start with the top. So, the VMware  
22 VCloud Air -- the VCloud Air is really marketing terms from  
23 VMware for its infrastructure hosting services that can be  
24 obtained just through a Google search, consistent with my  
25 team's analysis of this, including my technology consulting



1 experts.

2 This top line is essentially the license, three-year  
3 license, and it is a monthly fee driven for a Virginia-based  
4 data center. So, that's a subscription license for one public  
5 IP address.

6 The second line also relates to VCloud Air, which,  
7 once again, is the hosting and infrastructure. And this is the  
8 Windows server. And this would also include the U.S. Virginia  
9 data center as disclosed there.

10 The third one is --

11 Q. The Virginia data center, Mr. Naviloff, is it your  
12 understanding that that's the OVH data center in Virginia?

13 A. That's my understanding, is that's where it's located.  
14 Correct.

15 Q. Thank you.

16 A. So, the second one is for the Windows server 2012. Then  
17 the third one is for a license, and this appears to be the  
18 data-driven, two front-end terabytes hosted, so it's a  
19 data-driven element that appears as a monthly fee for two  
20 terabytes.

21 MR. HUNTER: And could we go to the next slide.

22 Q. And did United Way pay both of these invoices?

23 A. Yes, that's correct.

24 Q. So, they are paying for these hosting services twice?

25 A. Correct.

1 MR. HUNTER: The next slide, please, Ms. Sheff.

2 Q. And here did Insight also charge for virtual desktops?

3 A. Yes. So, this is a side-by-side invoice from DigitalNet,  
4 once again, with Insight in highlight of the virtual desktop.

5 Q. And DigitalNet is also charging for virtual desktops?

6 A. That's correct.

7 Q. Next slide. And, again, United Way paid both of these  
8 invoices?

9 A. That is correct.

10 Q. Go ahead, Mr. Naviloff.

11 A. So, on that last slide there's reference to Horizon, and  
12 Horizon is the marketing name for the desktop service. So, if  
13 you look at VMware's marketing literature on that, they call it  
14 "Horizon"?

15 Q. Horizon is the virtual desktop service --

16 A. Yes.

17 Q. -- that it's marketed as?

18 A. Yes.

19 MR. HUNTER: Next slide, please.

20 Q. Is this another virtual desktop invoice from DigitalNet?

21 A. Yes. It's another example of virtual desktop.

22 Q. Again, billed out at 16,500?

23 A. Correct.

24 Q. And we see another invoice from Insight for those  
25 services; is that right?

1 A. That is correct.

2 Q. And United Way paid both of these invoices?

3 A. That is correct.

4 Q. What is DAAS?

5 A. That's the desktop as a service, DAAS.

6 Q. So, it's an abbreviation of the line item that we saw on  
7 the prior invoice?

8 A. Yes.

9 Q. So, sometimes the invoices abbreviated it a little bit  
10 differently?

11 A. Correct. It's not always easy to interpret these.

12 Q. So, despite the fact that there's a change from  
13 CloudConnect to Insight in providing hosting and virtual  
14 desktop services, was there any change in the payment  
15 structure -- I think you said this -- between DigitalNet and  
16 United Way?

17 A. No. Some of the charges changed based upon volume, but  
18 the underlying substance of it is the service agreement,  
19 managed IT service agreement.

20 Q. So, the payment structure remained the same?

21 A. Correct.

22 Q. So, in other words, DigitalNet moved from excessive  
23 billing for a service to double billing for the same service?

24 A. Yes. They're paying both invoices.

25 Q. Did that result in more profit to DigitalNet?

1 A. That does.

2 MR. HUNTER: Can you go to the next slide, please,  
3 Ms. Sheff. The next slide.

4 Q. Okay. Can you explain this illustrative slide, please,  
5 Mr. Naviloff?

6 A. So, this illustrative slide demonstrates, similar to the  
7 earlier one, the cash flows associated with the relationship  
8 with Insight. On the far right, once again, you'll see United  
9 Way as the payor, and you'll see standing in the middle, once  
10 again, is DigitalNet. Although, in this instance you can see  
11 they didn't, in fact, stand in the middle; they stood as a  
12 separate party with invoices and payments going to and from  
13 Insight as well as invoice and payments going to and from  
14 DigitalNet. And the total amount of payments that were made to  
15 DigitalNet were 864,000. The amount paid to Insight is not on  
16 the slide, but it was 250,000.

17 Q. So, DigitalNet charged 864,000 for a 200,000-or-so-dollar  
18 service they didn't provide?

19 A. That's correct.

20 Q. In addition with the change to Insight was there a change  
21 in the services that were being rendered for United Way? Or  
22 put it this way, Mr. Naviloff: We talked a little bit about  
23 the high availability backup services provided through  
24 CloudConnect. Did Insight provide such services?

25 A. So, it's a good question. The agreement with Insight and

1 the invoices were silent with regards to backup.

2 Q. So, there was no line item for high availability backup on  
3 the Insight invoice?

4 A. There's no line item, yes. As part of the procedures I  
5 performed, I inquired with John Meyer to understand his  
6 understanding of the relationship with Insight, because Insight  
7 continued to provide services directly to or continued  
8 providing service directly to United Way after Mr. Alrai's  
9 departure, and as part of the conversation that was shared with  
10 me between Insight that there was no backups similar to --

11 MR. HARRINGTON: Judge, I'm just going to object. If  
12 it was going to be a discussion with Mr. Meyer and information  
13 Mr. Meyer provided this expert, I get that, but if we're going  
14 one more step removed and it's information provided by Insight  
15 to Meyer to this expert, I'm going to have an objection based  
16 on that. I think that's getting a little bit removed.

17 THE COURT: It is getting a bit removed but not in a  
18 way that's unusual for an expert, is it?

19 MR. HARRINGTON: As far as having access to that  
20 information, I don't have that information. I think the  
21 prosecutor is attempting to elicit information that Insight  
22 provided Mr. Meyer to this expert. So, this is new information  
23 to me, Judge.

24 MR. HUNTER: I can elicit the testimony that John  
25 Meyer gave in this trial, your Honor.

1 THE COURT: If that's the way you want to approach it,  
2 because counsel hasn't had an opportunity to hear that. So,  
3 why don't you approach it in the way as you just proposed.

4 MR. HUNTER: Thank you.

5 THE COURT: Sustained.

6 BY MR. HUNTER:

7 Q. Mr. Naviloff, John Meyer testified that he attempted to  
8 get geographically diverse high availability backup services  
9 from OVH but was unable to do so. Is that consistent with your  
10 understanding from John Meyer, that those services were not  
11 available through OVH?

12 A. Yes. He informed me of that much or my team.

13 Q. And so, from your understanding from John Meyer that high  
14 availability backup was not available through OVH and that it  
15 was not billed for in the Insight invoices --

16 A. Correct.

17 Q. -- you're assuming that that's a factual basis in your  
18 report that those services were not provided?

19 A. Yeah. Further evidence to the lack of that service, my  
20 understanding is that there was an incident that resulted in  
21 five days of total downtime at United Way during the time  
22 period in which RSM was conducting its investigation.

23 Q. And I believe was that in August of 2018?

24 A. That's correct.

25 Q. And Mr. Meyer also testified to the effect that there was

1 an outage at the hosting -- OVH hosting facility that resulted  
2 in a multiday outage that would not have occurred had there  
3 been geographically diverse high availability backup. Is that  
4 consistent with your understanding?

5 A. That's consistent with my understanding of the events,  
6 yes.

7 MR. HUNTER: Could you go to the next slide, please,  
8 Ms. Sheff.

9 Q. So, we're now back to your summary of loss from United  
10 Way. So, again, can we just walk through this? We spent some  
11 time talking about infrastructure hosting, virtual desktops,  
12 data management and high availability backup and phone  
13 services. So, what does this number represent at the bottom?

14 A. So, if you add up those four components of amounts of  
15 invoicing to the United Way by DTS, essentially the revenue to  
16 DTS, and then you total that amount, it's \$3,524,509 for the  
17 specific services that we've been discussing.

18 Q. So, this is the amount, the 3.5 million, that's the amount  
19 that United Way paid DigitalNet for the monthly recurring costs  
20 associated with those four services?

21 A. That's correct.

22 Q. Then the next category, CloudConnect and SIP.US, are these  
23 the actual expenses to DigitalNet for those services?

24 A. Those were the expenses that I was able to identify within  
25 the records of DTS as having been paid to support the services

1 that were delivered by the underlying service providers.

2 Q. Okay. And that's \$327,342?

3 A. That is correct.

4 Q. And then this bottom number, the \$20,000, what is that?

5 A. As mentioned earlier, there were time periods in, I  
6 believe, 2013 as well as 2017 or '18 for which we could not --  
7 I could not locate payments through the credit cards of  
8 DigitalNet for SIP.US; nor could I locate them in disbursements  
9 from cash accounts. It seems likely that those services  
10 continued to be delivered during that time period, as we heard  
11 no information from United Way that phones were out. So, we  
12 had estimated a cost that was likely incurred by DigitalNet of  
13 20,000.

14 Q. 316?

15 A. 20,316. Apologies.

16 Q. So, again, the difference between the cost paid by United  
17 Way and the cost paid by DigitalNet for those services was  
18 what?

19 A. \$3,176,851.

20 Q. And that's a markup of about 914 percent?

21 A. That's correct.

22 Q. All right. Mr. Naviloff, did you conduct a separate  
23 analysis of the amount of money paid by United Way and Robert  
24 Allen Group to DigitalNet that Mr. Alrai used for his own  
25 personal enrichment?



1 A. Yes. That was the second analysis that I described at the  
2 beginning of my testimony.

3 Q. Okay. And what records did you rely on for this analysis?

4 A. As mentioned earlier, the analysis was of the files  
5 obtained from Mr. Alrai's accountant, Mrs. Terry, and those  
6 files as well as bank records and bank statements obtained from  
7 the various banks that Mr. Alrai's business had relationships  
8 with, at least the ones that were obtained by the U.S.  
9 Attorney's Office.

10 MR. HARRINGTON: Judge, I'm just going to object to  
11 this testimony. I think it's not relevant to the charges. I  
12 think it's also actually been covered by Ms. Terry, I think  
13 also by other witnesses that have been called by the  
14 government.

15 THE COURT: That's assuming you know exactly where  
16 he's going.

17 Is he right about where you're going?

18 MR. HUNTER: Your Honor, this is an analysis of the  
19 defendant's bank records, his business bank records and credit  
20 card statements, to show money that went to -- for personal  
21 rather than business-related expenses. I don't think that has  
22 been covered by prior testimony.

23 THE COURT: Well, it was sort of covered to a degree  
24 by the last witness. Is that what you're talking about?

25 MR. HARRINGTON: I think it was, and I also think

1 Mr. Terry went through tax returns for I think it was '13  
2 through '18. So, I think it has been covered. I also think  
3 that it doesn't seem necessarily relevant to the criminal  
4 charges that have been brought against him. Personal  
5 enrichment is not necessarily a part of any element that the  
6 government has to prove in this case.

7 THE COURT: It's not necessarily a part of an element,  
8 but it's certainly relevant and admissible.

9 MR. HARRINGTON: And I understand that, Judge.  
10 Obviously, if the Court wants to hear this evidence, it just  
11 seems to be cumulative to me. If you feel that it's necessary,  
12 then, obviously, you're going to want to consider it.

13 THE COURT: Well, all right. I'm going to overrule  
14 the objection for now, but if my boredom level, having heard it  
15 before, reaches a new plateau here, I'll change my mind.

16 MR. HUNTER: Thank you, your Honor.

17 THE COURT: So, that's overruled for now.

18 Q. All right. So, Mr. Naviloff, why did you conduct the  
19 separate analysis of Mr. Alrai's personal enrichment?

20 A. Yeah. So, as we discussed earlier, there's a large dollar  
21 amount, over 3,000,000, of services that were rendered for  
22 which no one else's was performed. So, when evaluating the  
23 overall context of my analysis, one of the concerns I had is  
24 that essentially there could be some amount of value in excess  
25 of billings for that 3,000,000. So, said another way, there

1     could be an offset between the category that I analyzed and a  
2     category I couldn't analyze that would reduce the 3.1 million  
3     to some other number, perhaps even closer to zero. So, this  
4     analysis is important to analyze the totality of the amount of  
5     money that the business earned in order to assess the 3.1  
6     million and how reliable or accurate that is for purposes of  
7     these proceedings.

8     Q.    So, in other words, what you're saying, Mr. Naviloff, is  
9     it's a way to confirm that there's not some other bucket of  
10    services that DigitalNet is providing that you didn't account  
11    for in your analysis of the invoices and contracts at United  
12    Way?

13    A.    Yes. This is essentially that catchall, understanding  
14    what services are being provided and what are cash inflows and  
15    outflows. This is really looking at what was left after the  
16    business took money in and spent it, because there's some  
17    amount that's going to be residual that will further evidence  
18    what occurred in this case and the amount of loss to United  
19    Way.

20    Q.    Thank you.

21               MR. HUNTER: Slide 26, please, Ms. Sheff.

22    Q.    So, you said you analyzed some bank accounts from  
23    Mr. Alrai, and were you able to determine money that went into  
24    those accounts?

25    A.    Yes. So, the amount of money coming into the bank for

1 DigitalNet and Aisa Consulting came from two primary sources:  
2 United Way, which we mentioned before, which is 6.7, 6.8  
3 million. That agrees with the amount in United Way's records,  
4 which is always good. And then the other side of it was a new  
5 party to my analysis, which is the Robert Allen Group, who pays  
6 in -- who has paid in 410k into the accounts that have been  
7 analyzed. And then there was a small amount, 100,000, 102,000,  
8 to be exact, for which the other payees had paid in money into  
9 the accounts.

10 Q. So, from the DigitalNet and Aisa accounts that you  
11 analyzed, about 99 percent of the funds came from either United  
12 Way or Robert Allen Group?

13 A. Correct.

14 MR. HUNTER: Next slide, please.

15 Q. What is this slide showing?

16 A. So, in any analysis, forensic analysis and asset tracing,  
17 we want to make sure we got all the ins and outs. So, we were  
18 shared a lot of bank statements for a lot of banks. When  
19 looking at this set of seven accounts, I was able to -- a  
20 significant amount of inter-account transfers were taken,  
21 explained briefly, but the entirety of the cash coming in and  
22 then the entirety of what appears to be cash going out to  
23 business-related expenses all appeared to be self-contained  
24 within these seven accounts.

25 Q. Okay. So, in analyzing these accounts --

1 MR. HUNTER: Ms. Sheff, could you please put Exhibit  
2 118 on the screen, please. Exhibit 118. And could you go down  
3 to the bottom page.

4 MS. SHEFF: The last page?

5 MR. HUNTER: Yes, please.

6 Q. Did you see any money coming into DigitalNet or Aisa's  
7 accounts from the sample customers listed on the last page of  
8 Exhibit 118?

9 A. No, I did not. The only other area, as mentioned before  
10 in my analysis, there were a couple of additional names that  
11 showed up, and they're part of my more detailed report that I  
12 shared with the parties, but none of these names were names on  
13 the list or included within the 102,000.

14 Q. Did you see any deposits from Barneys in New York in the  
15 DigitalNet accounts?

16 A. I did not.

17 Q. Or Abilities, Incorporated in New York?

18 A. I did not.

19 MR. HUNTER: Okay. All right. Ms. Sheff, can we go  
20 back to 924, slide 28.

21 Q. Is this a summary of your analysis of Mr. Alrai's personal  
22 enrichment?

23 A. Yes, it is.

24 Q. Okay. And what is this first category, "Increase in  
25 assets and analyzed accounts"?

1 A. So, out of the seven accounts that I examined, we looked  
2 at the beginning balance, all of which occurred, at least the  
3 first statements available to us from the records available,  
4 and then those all had a zero balance, and they all, all the  
5 account statements were as of the time period which we analyzed  
6 for DTS, which were in the 2013 through 2019 time period. So,  
7 it started at zero and then went to some number, which in this  
8 case was, last statement available indicated 1,467,643. So,  
9 this is the amount of cash captured in the seven accounts  
10 during the time period for which this relationship between DTS  
11 and United Way existed.

12 MR. HUNTER: Ms. Sheff, could you go to the next  
13 slide, please.

14 Q. Is this summarizing the balances in those accounts?

15 A. That is correct.

16 Q. Okay. And it looks like the total of the account balances  
17 was the 1.467 million --

18 A. Yes.

19 Q. -- which is about \$1,000 less than what the government  
20 seized. So, it looks like there was about a \$1,000 withdrawal  
21 before the government could freeze the funds?

22 A. I believe it was 29,000, and that's mostly related to that  
23 first account. It looks like there was some amount of spend  
24 between the last statement date of 485,941 on June 30th, and  
25 some amounts were spent out of that account before it was

1 frozen.

2 Q. So, why did you classify the \$1.4 million sitting in the  
3 Aisa and DigitalNet accounts as personal enrichment?

4 A. This is money that wasn't spent. So, just by that nature  
5 money coming into the accounts which didn't have any sort of,  
6 at least best we can tell -- we don't have all the open  
7 invoices or payables records -- but this is amounts that the  
8 company received for invoices that were billed to either United  
9 Way or Ethan Allen (sic) Group.

10 Q. So, in other words, over the course of 2013 to 2018 Aisa  
11 and DigitalNet were able to build a nest egg of 1.4 million  
12 bucks?

13 A. Cash in and then cash out. So, this is what's left after  
14 the cash went out to pay bills.

15 MR. HUNTER: Ms. Sheff, go back to slide 28.

16 Q. "International wire transfers to Pakistan." That's about  
17 1.2 million?

18 A. That's correct.

19 MR. HUNTER: Okay. And, Ms. Sheff, could you go to  
20 slide 30.

21 Q. All right. We'll talk about this slide in a minute, but  
22 in your report did you make any assumptions about costs related  
23 to DigitalNet in Pakistan?

24 A. Yes. So, the transfers to Pakistan, at the time of my  
25 report we didn't receive any business documents or support for

1     those payments, and in my report I assumed that total amount as  
2     part of the personal enrichment to Mr. Alrai. I came up with a  
3     hypothetical example of kind of a back-envelope, saying, if  
4     there were costs related to Pakistan, which I wasn't sure of at  
5     the time, that they may include up to two individuals in my  
6     hypothetical, similar to the number of individuals that are  
7     currently, my understanding, helping United Way, and I had  
8     performed a calculation to back into very high-level what the  
9     cost of those two employees over the five-plus years would  
10    cost, including rent. And I didn't go into a lot of detail.  
11    Obviously, I was missing certain other costs.

12   Q.   You were making assumptions based on public information  
13   about salaries in Pakistan?

14   A.   Yeah.

15   Q.   And rent in Pakistan?

16   A.   Just high level, and I believe it came out to around  
17   250,000.

18   Q.   Okay. So, a difference between the wire transfers of  
19   about 975,000?

20   A.   Correct.

21   Q.   Did you subsequently receive records from the defendant  
22   regarding the payroll in Pakistan?

23   A.   I did.

24   Q.   And was this reciprocal discovery from the defense related  
25   to his experts?



1 A. It was.

2 Q. And did you analyze those payroll records?

3 A. I did, yes.

4 MR. HUNTER: So, first Ms. Sheff, could you zoom in on  
5 this table here.

6 Q. So, is this table a summary of the payroll records  
7 received from the defendant regarding payroll in Pakistan?

8 A. That's correct.

9 Q. Okay. And what does it show?

10 A. So, this shows that the transfers started in February of  
11 2017, much later than the date in which the banking transfers  
12 occurred. So, this is payroll data. So, this is the first  
13 payroll that occurred in 2017.

14 Q. So, we only received payroll from the defense going back  
15 to 2017?

16 A. Yes.

17 Q. Okay.

18 A. And it continued through June of 2019, which is past the  
19 termination date of Mr. Alrai and DigitalNet.

20 THE COURT: Hold on a second, Counsel. I want to make  
21 sure I heard your question.

22 MR. HUNTER: Yes.

23 (Pause)

24 THE COURT: Understood. I'm sorry. Thank you.

25 MR. HUNTER: No problem, your Honor.

1 Q. And did the payroll records also list numbers of  
2 employees?

3 A. Yes. To continue with my observations, the number of  
4 employees is shown here. I counted the number of employees on  
5 a sheet, each of the payroll sheets. In some instances the  
6 names were blanked out, and the U.S. Attorney's Office informed  
7 me that at least some of them may have been either in-laws or  
8 relatives of Mr. Alrai.

9 However, the number of individuals listed on those  
10 sheets ranged here from 17 to 21, and when converted into U.S.  
11 dollars you can see that in the fourth column -- this is math  
12 that I performed -- that math, if you add up all those amounts  
13 for the time period, comes to 147,000.

14 Now, the last observation on this spreadsheet is that  
15 the average amount per employee, while I calculated that annual  
16 salaries were in the realm of 12,000 to 19,000 a year, so 1,000  
17 a month, these suggest average salaries far less than that. I  
18 didn't have details of the number of hours worked and how much  
19 people were being paid, but this suggests that these  
20 individuals weren't full-time employees.

21 Q. At least based on the public records?

22 A. Based upon what I can gather, yeah.

23 MR. HUNTER: Ms. Sheff, could you pull that down and  
24 zoom in on this slide here on the upper right-hand corner.

25 Q. So, what is this illustrating, Mr. Naviloff?

1 A. So, this is a comparison of the 1.2 million that was  
2 transferred to Pakistan through the seven accounts that we  
3 observed compared with the amount of payroll support that was  
4 provided. Now, this isn't apples to apples, because that 147  
5 includes a certain amount that transferred after DigitalNet's  
6 relationship with United Way ceased, so it can't possibly be  
7 explained by the 1.2 and the 147 presumably, but --

8 Q. So, this isn't apples to apples?

9 A. Not apples to apples.

10 Q. Because the payroll continued after Mr. Alrai and  
11 DigitalNet were terminated from United Way and the payroll  
12 started after DigitalNet --

13 A. Correct, yes. Yeah, it's just off.

14 Q. All right.

15 A. Different periods.

16 Q. And we'll get to that, because you did some projections to  
17 try to account for that, correct?

18 A. I did, yes.

19 MR. HUNTER: So, you can take that down, Ms. Sheff.

20 And I just want to zoom in on this bottom right-hand slide.

21 Q. So, what is this showing, Mr. Naviloff?

22 A. Yeah. This is just another way for the Courts to look at  
23 the payments and show that, generally speaking, they were  
24 consistent in size and frequency.

25 Q. With one spike in May of 2018?

1 A. Yeah, aside from the one spike in May. So, generally  
2 speaking, we have plotted these out just to show the timeline  
3 February of 2017 through June of 2019, along with the date in  
4 which the termination of the DigitalNet arrangement occurred,  
5 which was June, and you can see the amount of payroll didn't  
6 change in any significant meaning or manner after the  
7 termination of the relationship.

8 Q. So, in your opinion, there's no real change in the  
9 payroll?

10 A. Yeah. I mean, that line is intended to represent an  
11 average, a linear average of the payroll for that time period,  
12 so it's just for reference purposes.

13 Q. So, the payroll after DigitalNet is no longer working at  
14 United Way, that's not going toward any United Way related  
15 projects, presumably, correct?

16 A. I don't know how that would be possible.

17 MR. HUNTER: All right. Could we go to the next  
18 slide, please, Ms. Sheff.

19 Q. Okay. Could you explain to the Court the analysis you're  
20 doing here.

21 A. Yes. So, the top line here is summarizing this start and  
22 end date of the payroll support that was provided, and you can  
23 see that's -- the time between June 3rd, 2019 and February 1st,  
24 2017 represents 852 days. Divide that by 365 and you get to  
25 2.3 years. So, if you divide the total amount of payroll,

1       which is 147,165 in U.S. dollars, by the 2.3 years, you come up  
2       with an average annual amount of payroll of \$63,046.

3               I next took that dollar amount and applied by the time  
4       period for which foreign wire transfers occurred and applied it  
5       assuming that equivalent amount which was paid going back in  
6       time. However, the assumption is that the records were lost,  
7       destroyed or just not turned over. So, multiply the 63,046 by  
8       the difference in days, which is 5/21/18 minus September 1st,  
9       2013, so 9/1/2013, you come out with 1,723 days, which is 4.7  
10      years. So, multiply 4.7 years times 63,046.

11             THE COURT: You're going to have to slow down. The  
12      court reporter is really struggling here.

13             THE WITNESS: Sorry. I get excited.

14             MR. HUNTER: Math can be fun.

15             THE WITNESS: Yeah, this is fun for accountants. So,  
16      I'll restate the entirety of the last row.

17             THE COURT: Do it real slow.

18             THE WITNESS: I will. So, the bottom line represents  
19      the extrapolation of the annual number of 63,046 over the time  
20      period from September 1st, 2013 to May 21st of 2018, and that  
21      start and end date represents a period of 4.7 years.

22      Q.     And how did you pick that start and end date?

23      A.     That is the date in which the wire transfers began as well  
24      as the wire dates ended, and those are dates from banking  
25      records.

1 Q. Okay.

2 A. Now, that 4.7 years is then multiplied by 63,046 to come  
3 up with an apples-to-apples number that can be compared to the  
4 1.2 million of wire transfers.

5 Q. And what was the difference between this calculation of  
6 DigitalNet payroll going back to 2013 and the amount of money  
7 DigitalNet wired to Pakistan?

8 A. Yes. So, the amount that I calculated for that time  
9 period, 4.7 years, is 297,612, and that is 914,588 less than  
10 the wire amount, which is 1,212,200.

11 Q. All right. So, even giving the defendant the benefit of  
12 the doubt that he actually had employees in Pakistan during  
13 this period, there's still a difference between the amount  
14 wired and the amount paid of over \$900,000?

15 A. Yes. If you look at it slightly differently, this would  
16 suggest three to four full-time employees, if you start looking  
17 at 12- to 19,000 and what I benchmarked as a salary for IT  
18 professionals in Pakistan for the Lahore region. So, not too  
19 far off in dollar magnitudes of the 250,000. Obviously, this  
20 doesn't include rent, but it's getting somewhat similar to what  
21 I had made as assumptions in my analysis.

22 Q. And your assumptions were based on a higher salary than  
23 what DigitalNet seems to be paying?

24 A. Yes, but they appear to be employing, best I can tell,  
25 people that are part time.

1 Q. Okay. Did you also look at the timing of the payroll  
2 against public records and records produced in discovery  
3 regarding the formation of UltPult, another company of the  
4 defendant's?

5 A. Yes.

6 MR. HUNTER: Next slide, please, Ms. Sheff.

7 Q. What is this that we're looking at on the screen?

8 A. So, this is the screen shot from New Hampshire Department  
9 of State showing business information, business detail, and  
10 this can be found publicly at the newhampshire.gov website.

11 Q. Does this show a business creation date of December 2015  
12 for UltPult?

13 A. Yes. The business creation date, UltPult's name, and it  
14 lists imran.alrai@aisaconsulting.com as the business email.

15 MR. HUNTER: Next slide, please, Ms. Sheff.

16 Q. This is a document in evidence, Exhibit 860. Here we can  
17 see a Certificate of Formation for UltPult signed by Imran  
18 Alrai in October of 2015?

19 A. That is correct.

20 Q. Okay.

21 A. And this predates the other document by approximately a  
22 month or two.

23 MR. HUNTER: So, the next slide, please, Ms. Sheff.

24 Q. So, Mr. Naviloff, what is this slide showing?

25 A. This is similar to earlier slides. For the Court's

1 benefit, we have overlaid the transfers to Pakistan to the  
2 purported DigitalNet payroll to show the apples-to-orange  
3 comparison and when the money was sent and when it was spent.  
4 And I've also overlaid the formation of UltPult, so with  
5 UltPult formation being closer to the origination of when that  
6 money began to be spent. So, specifically in Q4 of 2015  
7 UltPult was founded, and approximately a year later the payroll  
8 records started to show individuals for which payroll was  
9 provided.

10 Now, UltPult, if you look at the Google Play Store,  
11 the Google Play lists a number of apps that were developed with  
12 UltPult. Those apps began to be developed in and around that  
13 same time period.

14 Q. By "that same time period," what time period?

15 A. The time period beginning -- the earliest evidence that we  
16 see from my inquiries into the Google Play Store and their  
17 upload dates and their updates was early 2016, I believe, late  
18 -- in that time period. There's also music videos and  
19 promotional videos on Google YouTube, and those videos include  
20 some popular games in the Southeast Asia region with  
21 promotional videos that are in language common to the Southeast  
22 Asian area.

23 Q. So, you found, just on searching publicly available  
24 sources, some indication that UltPult had been doing stuff?

25 A. Right. Yes. UltPult was active shortly after its



1 founding with building games that were geared towards Southeast  
2 Asia.

3 Q. We also see, so UltPult is founded, wire transfers of --  
4 two spikes in wire transfers after that?

5 A. Yes.

6 Q. And they are obvious outliers. And then the payroll  
7 records that we received from defense begin in 2017?

8 A. Yes. And you can see up above here the time period for no  
9 Pakistan payroll records for which wires occurred was the  
10 majority of the 1.2 million. It was 736,530. And then after  
11 the formation of UltPult and corresponding more closely with  
12 the payroll records there was \$475,670 transferred in that  
13 later time period.

14 Q. All right. Mr. Naviloff --

15 MR. HUNTER: Could you go to the next slide, please,  
16 Ms. Sheff. All right.

17 THE COURT: We should break for the afternoon, we've  
18 been going 90 minutes, to give the reporter a break. So, we'll  
19 convene in 15.

20 MR. HUNTER: All right. Thank you, your Honor.

21 THE CLERK: All rise.

22 (Recess taken from 2:40 p.m. to 3:10 p.m.)

23 THE CLERK: All rise for the Honorable Court.

24 THE COURT: Please be seated.

25 All right. Mr. Hunter, you may proceed.

1 Sir, you're still under oath.

2 THE WITNESS: Yes.

3 MR. HUNTER: Thank you, your Honor.

4 Ms. Sheff, could you pull up 924, slide 28.

5 Q. We're back to your summary of your personal enrichment,  
6 Mr. Naviloff. We just talked about the international wire  
7 transfers, and we're going to talk about the credit card in a  
8 minute, but what are these last three categories, Transfer to  
9 personal bank accounts, Transfers to an individual retirement  
10 account, and a Mortgage payoff?

11 A. So, I'll take it, first, with the Transfers to personal  
12 bank accounts. That amount was observed in the disbursements,  
13 so the cash outflows of the accounts, the seven accounts that  
14 were analyzed that I identified as representing the total  
15 inflows and outflows related to the DigitalNet business.

16 Q. And those were basically amounts from the DigitalNet  
17 accounts into Mr. Alrai's personal bank account?

18 A. So, the accounts for which the analysis was labeled, all  
19 those accounts as far as account names showed either DigitalNet  
20 or Aisa Consulting as the bank that the transfers were  
21 occurring to. So, there were transfers to Mr. Alrai in his  
22 personal accounts that would have been labeled as "Alrai."

23 Q. And you counted that as personal enrichment?

24 A. We counted those as personal.

25 Q. And Transfers to individual retirement account, an IRA?

1 A. Similar. So, these would have been transfers to accounts  
2 with IRA titles to them.

3 Q. And then, finally, a Mortgage payoff?

4 A. And the last one is a mortgage payoff that occurred  
5 related to a property or a loan, at least -- a mortgage.

6 Excuse me.

7 Q. And so, was that a rental property out in Methuen,  
8 Massachusetts?

9 A. Yes, yes.

10 Q. So, now let's talk about seemingly personal transactions  
11 on a DigitalNet Chase business credit card.

12 MR. HUNTER: Ms. Sheff, could you go to slide 35.

13 Q. Could you describe your analysis here, Mr. Naviloff?

14 A. Sure. So, the key word there is "seemingly." So, the  
15 business records in this instance aren't necessarily complete  
16 or available, but using my professional experience in  
17 performing many travel and entertainment expense investigations  
18 in fraud, waste, abuse assessments, typically what I see is the  
19 higher risk categories relate to expenditures for non-business  
20 expenses typically end up being in the places such as consumer  
21 purchases, consumer-related dining establishments, such as --  
22 or excuse me -- purchasing stuff from establishments such as  
23 Home Depot or other areas where materials can be used at home  
24 as well as at work, so some of the ambiguous categories where  
25 purchases can potentially be construed as business related but

1       aren't.

2               In this instance there's not sufficient supporting  
3 details with respect to who attended meals, what the purpose of  
4 the airfare was for, a lot of the factors that go into  
5 performing an analysis, and these are information that would be  
6 required for IRS and for preparing expense items for purposes  
7 of IRS deductions. However, they weren't available as far as  
8 my review.

9       Q.    Okay. But based on your review, did you see about  
10 \$100,000 in airfare expenses using a DigitalNet credit card?

11      A.    I did, yes.

12      Q.    And \$90,000 in shopping expenses?

13      A.    Yes. Shopping expenses exceeded 90,000, hotel expenses  
14 exceeded 35,000, gas station expenses 35,000, and dining  
15 expenses, much of which was local, was 33,000.

16      Q.    And over what time period were these expenses incurred?

17      A.    This would have been during the duration for which we had  
18 records, which I believe is 2013 through 2017.

19      Q.    And you listed some specific examples here. You saw this  
20 is on the DigitalNet credit card?

21      A.    Yes. Starting from the top here, the 67,000 in  
22 international airfare, that was flagged, as I also identified  
23 through Customs documentation travel internationally with  
24 family members. It's a higher risk area. The Home Depot, as I  
25 mentioned earlier, that's an area that has both purchases that

1 can be personal in nature as well as those that could be  
2 business, but without further support it's hard to discern.

3 Similar to that, the Napolitano marble and granite for  
4 \$10,480.

5 Q. What is that business?

6 A. That is a business that I believe sells marble countertops  
7 and other marble-related and granite product.

8 Q. Okay. You saw about \$6,200 for a plastic surgery bill?

9 A. Yeah. So, some of the other items that presumably are  
10 personal in nature include the plastic surgery for Jonathan  
11 Hall, jewelry purchases, and then also Canobie Lake Park, which  
12 were \$6,250 for plastic surgery, \$4,410 for Al-Rais Jewelry,  
13 and \$1,750 for Canobie Lake Park, Amusement Park.

14 MR. HUNTER: Next slide, please, Ms. Sheff.

15 Q. So, is this slide summarizing the dining expenses you saw  
16 on the DigitalNet business card?

17 A. Yeah. As I mentioned earlier, there was a significant  
18 amount of local dining. Here is a listing with a summary on  
19 the left of the dining establishment names. This came from the  
20 Chase credit card information that was made available by the  
21 CPA who prepared the tax returns. Now, the count here and the  
22 amounts are summarized for the time period, which were  
23 available and listed in order of descending amount of visits.

24 Q. And for all of these, these are all dining charges where  
25 there were more than ten visits in that time period?

1 A. That is correct. So, in this one example I took Dunkin'  
2 Donuts, looked at 119 visits and looked at the store locations,  
3 and for that the store location closest to Mr. Alrai's home was  
4 Dunkin' Donuts location number 346676. That's what shows up in  
5 the credit card statements. And then you can see the number of  
6 visits that occurred between 2013 through 2017.

7 Q. So, in total, about \$33,000 was spent on dining on the  
8 DigitalNet business card from 2013 to '18?

9 A. Yes, that's correct.

10 MR. HUNTER: All right. Could you go to the next  
11 slide, Ms. Sheff.

12 Q. So, this is medical and health-related expenses on the  
13 DigitalNet business card?

14 A. Yes. And here would be instances where presumably  
15 Mr. Alrai is covered from his health insurance plan through his  
16 employment with United Way. This is a charge that occurred in  
17 February of 2014 for Jonathan Hall, as I mentioned earlier,  
18 and, upon investigation, the services that are provided by this  
19 location appear to be cosmetic in nature.

20 Q. And there are other medical charges, again, charged with  
21 the DigitalNet business card for about \$15,000?

22 A. That is correct.

23 Q. And why did you classify these as personal?

24 A. Generally speaking, individual costs for CVS and other  
25 costs associated with healthcare, they're not items that should

1 be charged back to a business.

2 MR. HUNTER: Slide 38, please.

3 Q. You also analyzed travel. So, here's a few examples of  
4 travel. Did you compare these travel expenses with CBP records  
5 to determine whether or not Mr. Alrai was traveling with  
6 family?

7 A. Yes. So, I was provided U.S. Customs forms of entry, and  
8 comparing the dates in which border crossings had occurred I  
9 called out and matched some of the spending for purposes of  
10 what occurred on credit cards, the Chase credit card, with  
11 travel dates, and you can see here there's three different  
12 trips that are summarized and highlighted.

13 Q. So, it looks like he went to Dubai twice with Saima. And  
14 this is all, again, with the DigitalNet business credit card;  
15 is that right, Mr. Naviloff?

16 A. Yes.

17 Q. Including a trip to Niagara Falls?

18 A. Yes. There is a trip to Niagara Falls, as shown on the  
19 left. There's charges from August 24th through August 26th for  
20 both hotel stay and for gas and food, food and lodging, and  
21 consistent with that, those dates, there was an entry on  
22 8/24/2013 to Niagara Falls, Canada.

23 MR. HUNTER: All right. And slide 39, please,  
24 Ms. Sheff.

25 Q. We're back to your summary slide, Mr. Naviloff. So, just

1 in conclusion, we have the 1.4 million, Mr. Naviloff, that was  
2 just sitting in the bank accounts?

3 A. That's correct.

4 Q. And you included in this 1.2 for the wire transfers?

5 A. That is correct.

6 Q. And then what's this total, \$381,042?

7 A. That is correct.

8 Q. And that's the transactions you thought were seemingly  
9 personal?

10 A. Seemingly. So, it's as much as 381,000. Now, that  
11 doesn't include other amounts where we see donations to  
12 religious establishments and potentially other advances in  
13 cash. We just couldn't confirm whether they were to Mr. Alrai,  
14 himself.

15 Q. So, charitable donations you kept off?

16 A. Yeah. So, that 381,000 doesn't include other transactions  
17 that may have been personal in nature but not individual  
18 expenses.

19 Q. Okay. And then we talked about these, the other transfers  
20 to personal bank accounts, retirement accounts and mortgages?

21 A. That's correct.

22 Q. So, what's the total, when you add all of this up?

23 A. So, when you add up the personal expenditures, which  
24 totalled 556,203, with the personal savings of 3,144,158, you  
25 come to a total of 3,700,361.



1 Q. All right. Mr. Naviloff, based on your review of United  
2 Way's financial statements and vendor invoices, did you form an  
3 opinion about whether United Way suffered a loss from  
4 Mr. Alrai's fraudulent activity?

5 A. I did, yes.

6 Q. And what is that amount?

7 A. It's an amount no less than \$3,170,000, approximately.

8 Q. And based on your review of Mr. Alrai's bank account  
9 records for his businesses and tax records, did you form an  
10 opinion about whether or not Mr. Alrai is personally enriched  
11 due to his fraudulent activity?

12 A. Yes. So, the corresponding amount suggests that the  
13 personal enrichment and the corresponding loss to United Way  
14 would be no more than \$3,700,361.

15 Q. Okay. And in looking at this, where we have a  
16 \$3.7 million figure for personal enrichment, does that impact  
17 your confidence in your loss analysis that you did in reviewing  
18 invoices and contracts for United Way?

19 A. It does significantly, yes.

20 Q. Why is that?

21 A. This allows at least an overview of or way of evaluating  
22 the 3-plus million that I wasn't able to analyze in services  
23 delivered by DigitalNet and the approximate cost, the outflows  
24 associated with the delivery of those services.

25 Q. So, if we were to put it another way, of the 6.7 million

1       that United Way paid to DigitalNet, this analysis shows that as  
2       much as \$3.7 million didn't go to services provided to United  
3       Way?

4       A.     That's what this suggests, yes.

5               MR. HUNTER:   Nothing further at this time.

6               THE COURT:   Cross.

7                               CROSS-EXAMINATION

8       BY MR. HARRINGTON:

9       Q.     Good afternoon, Mr. Naviloff.

10      A.     Good afternoon.

11      Q.     How are you doing today, sir?

12      A.     I'm doing well.   Thank you.

13      Q.     So, I'm going to ask you a few questions, sir, and if you  
14      don't understand my question, just tell me, and I can rephrase  
15      it.   If you need me to repeat something, make sure you tell me  
16      to do that.   I'm happy to do that.   Okay?

17      A.     Understood.   Thank you.

18      Q.     Now, when you did your analysis in this case, you  
19      indicated that you were first hired to do an analysis in kind  
20      of an internal investigation for the United Way; you were hired  
21      by Attorney John Commisso or his law firm?

22      A.     Correct.

23      Q.     And one of the things that you indicated was that there  
24      was some privileged information that United Way still hasn't  
25      waived its privilege to?

1 A. That's my general understanding, yeah.

2 Q. Okay. And one of the things that you had talked about and  
3 that was raised by the prosecutor was that there were some  
4 servers that were imaged that were given to RSM, correct?

5 A. Yes, that's my understanding.

6 Q. And you talked about that there was a firewall, I think  
7 was the term that was used. Do you recall that?

8 A. Yes, I do.

9 Q. Okay. And is that the term that you would use, or is that  
10 just a term that was given to you by the prosecutor?

11 A. It was handed to me, that term.

12 Q. Yeah. What term would you use?

13 A. We have a secure lab, a digital forensic lab that  
14 information, when it's collected, it goes into a dedicated  
15 server which is restricted to only those individuals within our  
16 digital forensic group that have a need to access that  
17 information.

18 Q. And so, if you had wanted to access that information as an  
19 employee of RSM and somebody who was conducting what would be  
20 considered a forensic evaluation for the United Way, you could  
21 request access to that information if you felt it was  
22 necessary, right?

23 A. I don't know that that's -- I have never tried, let's put  
24 it that way, and I don't think that's protocol, meaning that  
25 the digital forensic people are charged with the custody of

1     that data and are responsible for handling the data. So, if  
2     there would be an instance where I needed data from them, I  
3     would ask them to process and extract information that's  
4     relevant to my case. So, it's big, huge, chunky data that's  
5     unprocessed that they're typically dealing with, and that's  
6     what their specialty is, taking ginormous chunks of data and  
7     identifying relevant information when requested.

8     Q.    Okay. And so, that's kind of my question, what I'm  
9     driving at --

10    A.    Sure.

11    Q.    -- and I don't know if I'm being too simplistic --

12    A.    No. That's okay.

13    Q.    -- is, if during the course of your evaluation you said,  
14    you know, "Jeez, I really need to take a look at what's on  
15    those servers and do some analysis to see if there's anything  
16    relevant to my analysis," then you would submit a request and  
17    see if they would be able to assist you. That would be part of  
18    their job, right?

19    A.    Yes.

20    Q.    So, saying that you don't have access to that information  
21    is not 100 percent accurate. You would have to take some steps  
22    in order to access it?

23    A.    Yes. It would take steps and costs on processing whatever  
24    needs to be processed to get relevant data off of the devices.

25    Q.    Okay. Thank you. And so, you had completed an evaluation

1 for the United Way, and did you complete that evaluation for  
2 the United Way before you were hired by the U.S. Attorney's  
3 Office in New Hampshire?

4 A. I did, yes.

5 Q. So, you completed that evaluation, and then you were hired  
6 by the U.S. Attorney's Office to do a new evaluation or just  
7 kind of give them the evaluation you already did?

8 A. It was to provide the evaluation that I already had done,  
9 factfinding, right, and share the relevant information with the  
10 government, and they had certainly collected information that I  
11 did not have, so to evaluate any additional information that  
12 they had that would be relevant to my opinion.

13 Q. So, a little bit of both. You had completed one  
14 evaluation --

15 A. Yeah.

16 Q. -- for United Way. The U.S. Attorney's Office gave you a  
17 little bit more information, and you incorporated that into  
18 your analyses that you've been talking about today?

19 A. That's correct. Yes, sir.

20 Q. Now, you would agree with me that for the purposes of your  
21 analysis for the U.S. Attorney's Office you were instructed to  
22 assume that all of the contracts between the United Way and  
23 DigitalNet were obtained fraudulently, correct?

24 A. Yes, that is correct.

25 Q. And for someone who is doing a forensic accounting into

1 activity that is alleged to be fraudulent, would you agree with  
2 me that that might be an odd point to start from with an  
3 assumption that all of the contracts were entered into or  
4 obtained fraudulently?

5 A. Well, this is where I would leave it to the attorneys as  
6 far as understanding what the underpinnings of the law and  
7 violations of the law and intent and fraud are. So, that's not  
8 an area that a forensic accountant, in my understanding, is  
9 allowed to jump into, judgments of guilt. With respect to  
10 facts, we're factfinders.

11 Q. Well, as an expert -- and you indicated you were a  
12 Certified Fraud Examiner, right?

13 A. Yes.

14 Q. And that's a specialty kind of certification you have to  
15 get as a CPA, right?

16 A. That is a specialty, yes.

17 Q. And so, as part of being a Certified Fraud Examiner, one  
18 of the things that you would opine upon would be fraud, right?

19 A. We are factfinders. So, within the guidelines of  
20 certainly the -- if you look back at the Association of  
21 Certified Fraud Examiners, there's guidelines on us making  
22 opinions or opining on guilt. So, my work is to fact find and  
23 lead up to the point where others would determine guilt and  
24 would also determine what type of action should be taken,  
25 whether it's dismissal or other sorts of disciplinary measures.

1           So, my role in investigation leads up to the  
2     factfinding and the valuation, right? You heard earlier that  
3     I'm accredited in business valuation. I do lots of lost  
4     profits. I help quantify things for insurance purposes. So,  
5     those are within the realm of what a forensic accountant does  
6     and what I sought to do for the U.S. Attorney's Office as well  
7     as my client, United Way.

8     Q.    Okay. The bottom line is you were instructed to assume  
9     fraud in all of the contracts, right, as far as them being  
10    obtained by DigitalNet from United Way?

11   A.    Yes. All of the contracts, yes.

12   Q.    Okay.

13           THE COURT: Let me just ask, if he was going to offer  
14    an opinion as to fraud, wouldn't you object?

15           MR. HARRINGTON: Yes.

16           THE COURT: Okay. That's an honest answer. Thank  
17    you. Especially in front of a jury. He wouldn't be allowed to  
18    tell the jury, because the trier of fact is the expert on fraud  
19    to make the determination. Okay, I gotcha. But it's an  
20    assumption he made. It's not unusual, I guess.

21   Q.    And let me ask you, in addition to that assumption you  
22    would agree with me that your analysis that you've provided to  
23    the Court, your analysis doesn't constitute an audit?

24   A.    The attestation standards are different standards than the  
25    consulting standards that I operate under.

1 Q. Okay. So, you would agree that your analysis in this case  
2 was not an audit?

3 A. Agreed.

4 Q. And you would agree with me, as part of that you're not  
5 issuing any type of opinion or an assurance regarding the  
6 financial statements, in particular, those of Mr. Alrai or the  
7 entities, that he reported taxes on or for the United Way,  
8 right?

9 A. I've observed transactions that from my analysis don't  
10 appear to have economic substance to them, but I don't have an  
11 opinion on the entirety of those financial statements.

12 Q. Okay. So, you can't tell the judge, you know, "I assure  
13 you, Judge, that all of the stuff that I've talked about in  
14 these financial statements is accurate and true"? You can't  
15 make those assurances; is that correct?

16 A. Well, I'm not relying upon the financial statements. I'm  
17 relying upon the bank accounts and the underlying business  
18 records.

19 Q. Let me ask you, in regard to CloudConnect, I want to talk  
20 to you about that, in regard to your analysis in this case --  
21 you're not an IT expert; is that fair to say?

22 A. I'm not an IT professional, no.

23 Q. And in this particular case did you consult with any IT  
24 experts in the rendering of your report?

25 A. I did.



1 Q. And who were those IT experts that you consulted with?

2 A. John Meyer, Diego Rosenfeld and another couple of  
3 associates that report to Diego Rosenfeld.

4 Q. And are those people that work within RSM?

5 A. Diego Rosenfeld is a principal with over 20 years of  
6 experience, and he leads our practice in New England with  
7 respect to providing technology consulting solutions to  
8 middle-market clients for RSM. Some of those are, you know,  
9 valuated reseller type arrangements, outsourced CIO type  
10 services, infrastructure needs, build-outs, setup. We do --  
11 RSM has over 1,200 technology consulting professionals within  
12 our 10,000-plus workforce, so it's a large area that we consult  
13 in.

14 Q. So, he works for RSM?

15 A. Yes.

16 Q. And the associates you referred to work for RSM?

17 A. They do.

18 Q. Okay. And did they provide any reports?

19 A. No. They worked for me. I'm the expert, and they worked  
20 under my supervision and quality control.

21 Q. Okay. You would agree with me that you didn't note in  
22 your report that you consulted with these individuals?

23 A. I mentioned members of my team, and I use the term "I" as  
24 referencing both the work that I performed as well as the work  
25 that I did -- that was done for me under my supervision.

1 Q. Now, in regard to your report -- let me give you a  
2 hypothetical, if you will, if I was going to build a house,  
3 okay, and you and I contracted with each other, and I'm going  
4 to build a house for you, okay, and that house is going to cost  
5 \$300,000 for me to build for you, we talk about the price,  
6 okay?

7 A. Yes.

8 Q. And you agree that that's a fair price to pay, you're  
9 going to pay it. And then I build the house for you. You  
10 agree that that's, as we're speaking, a general arm's length  
11 transaction; you're aware of what the price is going to be, I  
12 quote it to you, I build it and that's the price you pay?

13 A. Yes, that's arm's length. If two willing parties agree  
14 and there's transparency in the process, then it's arm's  
15 length.

16 Q. Okay. Now let's say you sign a contract with me for that  
17 same agreement, right, and in that contract there is an  
18 agreement that I can use a subcontractor if I want to, and you  
19 sign that contract that allows me to build that house for you,  
20 and I go and I build that house for you for the \$300,000, but I  
21 pay the subcontractor to build it for you \$100,000? That's  
22 still an arm's length transaction, right? I built you the  
23 house for \$300,000. I just paid somebody else less to do the  
24 work?

25 A. That suggests there's a considerable amount of risk in the

1 transaction, but, yeah.

2 Q. But if you agree to the price, if you are aware of what  
3 the price was, you agreed to it, but I'm able to do it for a  
4 lesser amount with a subcontractor, especially if you're aware  
5 of that term in the contract, that would be considered an arm's  
6 length transaction, wouldn't it, fair, open, transparent? I  
7 don't have to tell you what I'm going to make for profit, do I?

8 A. So, in a transparent manner, if someone were to enter into  
9 subcontracting they would have to -- RSM would disclose the use  
10 of subcontractors so it's transparent, but the pricing of those  
11 subcontractors is typically not disclosed in a business  
12 relationship, if that's what you're asking.

13 Q. Yeah. It doesn't have to be disclosed, right?

14 A. In many instances it's not.

15 Q. Okay. And I want to bring to your attention what's been  
16 marked as Defendant's Exhibit C. And I think you looked at  
17 this agreement. There's some overlap in government and defense  
18 exhibits in this case.

19 A. Yes, I'm familiar with this.

20 Q. Do you recall taking a look at this a little bit earlier,  
21 the Master Services Agreement?

22 A. I don't know that this was shared as part of my testimony,  
23 but I'm familiar with this agreement.

24 Q. Yeah. One of the things you had indicated to the judge  
25 earlier is you had reviewed all the contracts in the case,

1 right?

2 A. Yes. Yeah, correct.

3 Q. And one of the provisions that's in this Master Services  
4 Agreement is relative to subcontractors, right?

5 A. Yes.

6 Q. And "Company" in reviewing this contract -- and if you  
7 need to have me show you any other pages, you let me know. In  
8 the context of this Master Services Agreement "Company" is  
9 referring to DigitalNet, right?

10 A. Yes, DigitalNet is -- I'd have to review the front page to  
11 confirm that, but --

12 Q. Would you like to look at that?

13 A. I have no reason to doubt that that's not the case.

14 Q. Okay. Fair enough, sir. So, you would agree with me  
15 "Company" is DigitalNet, and it says here, "Company may  
16 subcontract part or all of the services to one or more third  
17 parties, provided, however, that Company shall be responsible  
18 for and shall guaranty all the work performed by the  
19 Company-designated contractor as if the Company performed such  
20 work itself."

21 A. Mm-hmm.

22 Q. Right? Okay. And, "Notwithstanding the foregoing,  
23 Company shall not delegate or subcontract any services that are  
24 expressly designated as being nondelegable by the client on a  
25 statement of work." Accurate reading, correct?

1 A. Accurate.

2 Q. So, with that in mind, you agree with me that the Master  
3 Services Agreement that we were just talking about is just kind  
4 of as it sounds, a master agreement that will typically cover  
5 terms of later contracts that could be entered into between  
6 DigitalNet and United Way, correct?

7 A. Correct. Yes.

8 Q. And so, with that in mind, if you're talking about  
9 telephony services, which is one of the main contracts you  
10 looked at, right, or cloud computing services, which is kind of  
11 the CloudConnect piece of it -- right?

12 A. Mm-hmm.

13 Q. And you just need to be verbal.

14 A. Yes.

15 Q. This Master Services Agreement would cover those  
16 contracts?

17 A. I haven't traced back and forth to see which would be  
18 covered and which are separate agreements that don't reference  
19 the -- I probably did at one point, it's just not in front of  
20 me right now -- but, generally speaking, the MSA would cover  
21 anything that's referenced as being covered by the MSA.

22 Q. Okay. So, with that in mind, let me talk to you a little  
23 bit about CloudConnect, and there's two different ways I want  
24 to talk to you about it. One is as this kind of subcontractor,  
25 if you will, because one of the things that you had indicated

1 in regard to CloudConnect was that it basically had provided  
2 the services for the cloud contract that DigitalNet said it was  
3 providing, correct?

4 A. Yes.

5 Q. That's a fair statement of what your testimony was?

6 A. Correct.

7 Q. And so, there was a significant differential in the cost  
8 that CloudConnect was charging to I think at that point it was  
9 Aisa Consulting versus DigitalNet, correct?

10 A. I butchered the pronunciation of that, if it's supposed to  
11 be Aisa. Okay. Yes.

12 Q. Just to make sure we're talking about the same thing?

13 A. Yes.

14 Q. And then the payments that United Way was making to  
15 DigitalNet for those services, right, big difference?

16 A. There's a difference, yes.

17 Q. Now, in the scenario that we had talked about as a  
18 subcontractor, if you will, if DigitalNet pays CloudConnect to  
19 provide these services that you've indicated you believe were  
20 provided by CloudConnect, charges a premium for them and makes  
21 a significant profit off of it, and that's covered by this  
22 subcontractor agreement, then DigitalNet is operating within  
23 the scope of the contract to subcontract the work out, if it  
24 chooses?

25 A. Yes.

1 Q. Now, let me talk to you in a different regard in regard to  
2 the same subject, CloudConnect, but a different kind of idea,  
3 if you will, which is are you aware -- did you speak to anybody  
4 at CloudConnect about the actual services that they provided to  
5 DigitalNet?

6 A. I did not, no.

7 Q. Did anybody on your team do that?

8 A. I don't believe so.

9 Q. And so, the services that you are saying you believe and  
10 you concluded were provided by CloudConnect are based on your  
11 review of the contract; is that fair to say?

12 A. It's based upon the contract, the invoices and the sheet  
13 containing a summary of the services, technical specs.

14 Q. And you are aware that, tell me if you're not, but you are  
15 aware that CloudConnect does not directly deal with businesses  
16 such as United Way or other businesses directly; they require a  
17 third-party vendor to be between them and the company that's  
18 being serviced? You're aware of that, right?

19 A. I believe the agreement suggested some pricing at the end  
20 of it that would have been pricing that would be conveyed to  
21 the end customer, so it wasn't clear from that agreement. And  
22 certainly the way in which the billing occurred wasn't  
23 consistent with at least the description of what was the  
24 expected billing in the agreement that was signed. So, another  
25 way of saying there is discussion of how billing should occur

1 or could occur and what did occur was different. So, I don't  
2 know whether or not services could or could not be offered  
3 under that agreement.

4 Q. Okay. So, let me ask it a little bit different way. Are  
5 you familiar with CloudConnect in the IT industry? Are you  
6 familiar with them?

7 A. My tech team has heard of them before.

8 Q. And based on them hearing of it before and speaking with  
9 you, did you become aware that they don't deal directly with  
10 the end users, they deal with third-party vendors? Did you  
11 become aware of that or not?

12 A. I believe the U.S. Attorney's Office shared that with me  
13 at one point.

14 Q. Okay. So, at some point you became aware that  
15 CloudConnect only dealt with third-party vendors, not end  
16 users?

17 A. Yes.

18 Q. But that was really not part of the calculation you made  
19 in the report, correct?

20 A. No. I don't know that it's relevant. In fact, Insight  
21 took over, and Insight is doing services directly for United  
22 Way, and if -- I guess, yeah, I don't know how it's relevant.

23 Q. Okay. Well, part of the -- one of the diagrams that you  
24 had brought up and talked with the judge about was the services  
25 flowing from CloudConnect directly to United Way, right, like



1     this cash flow and services, right, with DigitalNet kind of  
2     being in the middle? You remember that diagram, right?

3     A.    Money was not flowing from United Way to CloudConnect. It  
4     was flowing through DigitalNet, yes.

5     Q.    And you put kind of -- in that diagram for the judge you  
6     put in DigitalNet kind of in the middle, even though it didn't  
7     really need to be in the middle. If it was taken out, the  
8     services would have just flowed from CloudConnect to United  
9     Way, and the money could have flowed directly as well. That  
10    was kind of the point of the diagram, right?

11    A.    Correct.

12    Q.    But if CloudConnect doesn't deal with end users, they only  
13    deal with intermediary, third-party vendors, then that diagram  
14    wouldn't necessarily be accurate, right?

15    A.    So, the diagram is based upon the economic of the  
16    transaction showing the amount of capture by DigitalNet. Now,  
17    if you're suggesting that the economics would be different  
18    under a different vendor providing those services, I'd say it  
19    could be, but I don't know that that would be.

20    Q.    Okay.

21    A.    Insight, presumably, was less expensive or, I don't know,  
22    similar in expense, and was providing those services directly  
23    to the United Way. Obviously, there were significant margins  
24    and significant markup, infinite markup, because in the later  
25    period Insight -- obviously those bills were being paid

1 directly by United Way. So, there could be another vendor in  
2 place in an alternative universe, if you're asking me for a  
3 hypothetical.

4 Q. So, let me ask you, in regard to the services -- let's  
5 talk about that, the CloudConnect and services. You indicated  
6 that the things that you were looking at relative to those  
7 services were infrastructure, virtual desktop, and data  
8 management/high availability backup, right?

9 A. Yes.

10 Q. That's the CloudConnect piece, right?

11 A. Correct.

12 Q. And in that regard you've already indicated to the judge  
13 you didn't -- you or nobody on your team spoke with anybody at  
14 CloudConnect to confirm what services they were actually  
15 providing, right?

16 A. We reviewed the invoices for what they claimed they were  
17 providing.

18 Q. Okay. And in that regard are you aware that CloudConnect  
19 actually is a platform where they provide space to IT engineers  
20 to actually build the infrastructure, the virtual desktops,  
21 things of that nature?

22 A. Yes. It's essentially a sandbox for loading applications  
23 and running them for infrastructure purposes.

24 Q. And so, it actually requires programmers or engineers to  
25 go in and actually work within the environment that

1 CloudConnect provides, correct?

2 A. Yes.

3 Q. And are you aware that DigitalNet actually provided those  
4 services, the infrastructure, the creation of the virtual  
5 desktops and the other programs that were running on the  
6 CloudConnect platform?

7 A. Are you saying that they created the -- I'm sorry. What's  
8 the --

9 Q. That they were the ones that actually had created the  
10 infrastructure, the virtual desktop environments and everything  
11 that went with them, that they were the ones that actually  
12 created it, not CloudConnect. Are you aware of that?

13 A. So, they loaded the software and created the IT  
14 environment? Is that what you're saying?

15 Q. Correct. And that they're actually, as you had kind of  
16 given the analogy, the sandbox, right?

17 A. Yes.

18 Q. So, you go into the kind of the empty sandbox, but then  
19 you have to build structures within it, right?

20 A. Yes. Loading software and doing the wiring and doing the  
21 plumbing, yeah.

22 Q. And so, what I'm suggesting to you and asking you is are  
23 you aware that DigitalNet did all of those things, all of the  
24 plumbing, and that CloudConnect was just the platform?

25 A. Yes.

1 Q. I want to switch gears with you, Mr. Naviloff, a little  
2 bit and actually ask you about -- and let me get the slide for  
3 you. You were talking a little bit about the wiring money  
4 overseas and employees of DigitalNet in Pakistan. I want to  
5 ask you a few questions about that. Give me just one moment.

6 (Pause)

7 MR. HARRINGTON: If you could pull up Exhibit 924.  
8 Oh, let me switch it over. I'm sorry. It's Exhibit 924, slide  
9 30.

10 Q. So, you recall talking to the prosecutor about this  
11 particular slide, correct?

12 A. Correct.

13 Q. And this is information that is relative to what you had  
14 indicated were payroll, monthly payroll; is that right?

15 A. What was represented as payroll for Pakistan employees,  
16 yes.

17 Q. Okay. And so, if we look at these numbers here, we have,  
18 let's see, one, two, three, four -- if you want to highlight  
19 that, go ahead. Let's just count the number of dates we have  
20 here. We have one, two, three, four, five, six, seven, eight,  
21 nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen  
22 months represented there; is that accurate?

23 A. Yes.

24 Q. And would it also be fair to say that, when you look at  
25 that, your numbers, obviously, are based just on the months

1 that are provided here on the screen, those 16 months?

2 A. Yes, that's correct.

3 Q. So, if we look at that, though, it's actually not a  
4 month-to-month transfer. So, for example, if you look at the  
5 beginning, you have February 1, 2017, then it skips to April.  
6 So, we're missing March, right?

7 A. I don't know. Do you know if we're missing it?

8 Q. Well, I'm asking you if it's here.

9 A. What's that?

10 Q. I'm asking you if it's here on this chart.

11 A. I don't know if it's missing or not.

12 Q. I'm asking you if it's on your chart.

13 A. Was there a March payment? Is that what you're saying?

14 Q. Yes. I'm asking if the monthly payroll --

15 A. Is this monthly payrolls, or is it ad hoc whenever it's  
16 paid? I don't know.

17 Q. Okay. So, my question is the month of March is not  
18 included on this chart, right?

19 A. If one occurred.

20 Q. Okay. And would it be fair to say that you go to April,  
21 right, and it's April to July? So, the months of May and June  
22 aren't included on that, right?

23 A. If they occurred.

24 Q. Okay. And the same, we go July to October, and it's  
25 August and September are not included, correct?

1 A. If they occurred, yeah.

2 Q. Okay. And you can go like that, you know, through. So,  
3 for example, you get to the next series, and you have January,  
4 February, March, three months in a row?

5 A. Yup, if they occurred.

6 Q. So, going between this date of February 1, 2017 and June  
7 3rd of 2019, you can take a look at this, you would agree with  
8 me that it's not month to month based on what's here; there's a  
9 number of months that aren't included on the chart?

10 A. There is irregular payment activity. None of the  
11 underlying supporting documents with regards to the  
12 compensation agreements with any of these individuals or even  
13 the name of certain individuals that are blacked out were  
14 provided to me.

15 Q. And so, let me ask you to make this assumption.

16 A. Yeah.

17 Q. If you assume that payroll was done month to month, this  
18 would not be an accurate reflection of month to month; it would  
19 be missing months, right?

20 A. Correct.

21 Q. Okay. And if that assumption is correct, this number that  
22 we have down here and then converted over into U.S. dollars  
23 would be underestimated. Would that be fair to say based on  
24 that assumption?

25 A. If documents that weren't available to me exist, then I

1 would update this to reflect any documents that exist  
2 evidencing payroll.

3 Q. Okay. And so, if payroll -- the payroll, if we're  
4 assuming that's what this is, it remains generally consistent,  
5 right, as far as how much is transferred on the months that  
6 they're transferred?

7 A. Correct. Yes.

8 Q. And so, if that remained consistent for the months that  
9 we're talking about that aren't included, as I'm indicating to  
10 you here, these numbers could be significantly higher. We're  
11 talking about roughly 13 months that aren't included in this  
12 range, right?

13 A. That's correct. Yes. I didn't count the months missing,  
14 but if you did, then, I'm not going to --

15 Q. You also had indicated that one of the things you had  
16 noticed is that in reference to UltPult and the payroll that  
17 was going on, it was taking place at a time when Mr. Alrai  
18 wasn't at United Way any longer and the payments from United  
19 Way weren't going to DigitalNet, and so you had made that  
20 observation, correct?

21 A. Correct.

22 Q. And in that regard would you agree that that view, looking  
23 at that and DigitalNet and UltPult working on other things,  
24 indicates that they have ongoing payroll and they were engaged  
25 in other activities?

1 A. I was observing UltPult as a potential source of work for  
2 the Pakistani employees, which would demonstrate the use of  
3 United Way funds for business purposes other than United Way,  
4 and that's consistent with thus far the evidence that's been  
5 produced.

6 Q. Now, one of the things that you tried to do when -- I'm  
7 going to switch gears and go to a different subject. One of  
8 the things that you tried to do is you tried to compare apples  
9 to apples when you were looking at invoices, right?

10 A. Yes.

11 Q. And the reason that you were trying to do that is --

12 A. You mean in payroll or invoices?

13 Q. Invoices. So, let me clarify, because I'm switching  
14 gears.

15 A. Okay. Sure. Okay.

16 Q. When you are looking at invoices that are coming from  
17 DigitalNet and, for example Insight, and you're trying to  
18 compare those two -- which you did, right?

19 A. Correct.

20 Q. And we're now talking about telephony services?

21 A. Okay, telephone.

22 Q. One of the things that you tried to do is you tried to  
23 make sure that when you were looking at those invoices you were  
24 comparing apples to apples to make sure that the invoices were  
25 for the same things?



1 A. That's correct.

2 Q. Because if the invoices were for different things, then  
3 the calculation that you're making about loss or services that  
4 were provided would be incorrect, right?

5 A. That is correct.

6 Q. And one of the things that you did is, and, again, I  
7 understand that you're doing the best that you can when you're  
8 looking at these things, but this was not an easy process, was  
9 it, comparing the invoices and trying to figure out what the  
10 DigitalNet invoice included when you compared it to, for  
11 example, an Insight invoice?

12 A. In terms of forensic accounting analysis they're never  
13 clean. Was this any harder than ordinary? No.

14 Q. Okay. And so, because it's not clean, you have to make  
15 certain assumptions and conclusions based on your review of the  
16 invoices that they are covering the same services?

17 A. Based on the descriptions provided in the invoices, yes.

18 Q. And the invoices that you had received or reviewed from  
19 DigitalNet did not contain a lot of detail; they would just  
20 simply say, for example, "Managed telephony services," correct?

21 A. That's correct.

22 Q. And then you would take that and you would look at a bill  
23 from Insight that might provide a number of pieces of  
24 information, more detail relative to things that were done by  
25 Insight?

1 A. We have moved off telephone, but, yes, there's vendors  
2 providing services that have descriptions in their invoices.

3 Q. And I apologize. I probably should have said SIP,  
4 correct?

5 A. Sorry?

6 Q. You said we had moved off telephone. I should have  
7 referred to it as SIP instead of Insight, correct?

8 A. Yes, SIP. Yeah, okay. Back to SIP. Yup.

9 Q. And you encountered that same kind of task when you  
10 compared a DigitalNet invoice to a SIP or an Insight invoice;  
11 you had to kind of make some opinions and conclusions because  
12 there wasn't a lot of detail on the DigitalNet invoices  
13 compared to the Insight or SIP invoices?

14 A. Yeah. Once again, we had the service agreements in place  
15 as well to draw parallels between what was expected to be  
16 delivered, what was invoiced, and what the underlying service  
17 provider was charging. So, more than just an invoice, but the  
18 service agreement as well in parallel.

19 MR. HARRINGTON: And, Ms. Sheff, if you could pull up,  
20 I believe it is slide 5. I believe it's slide 5. Keep going.  
21 Keep going. Keep going. Yeah, stop right there. Thank you.  
22 If you back up one.

23 Q. So, I'm kind of giving you an example of the invoices. If  
24 you look here, you have an invoice from DigitalNet on the top  
25 section, correct, on the left?

1 A. Yes.

2 Q. And it is dated, and it says, "Managed IT services,"  
3 correct?

4 A. Yes.

5 Q. And then you have this blockout, and you have this one  
6 line, "Infrastructure as a service and hosting," correct?

7 A. Correct. DigitalNet, yes.

8 Q. And then you correlate that, when you look at the Insight  
9 bill, to this information that you have blocked off here  
10 regarding VMware, vCloud Air, Virtual Private Cloud. You're  
11 basically saying this up top here is this through Insight  
12 (indicating), right?

13 A. Yes.

14 Q. When you were doing that and making those comparisons did  
15 you ever talk to anybody at Insight, whether it's you or your  
16 team, talk to anybody at Insight or SIP relative to what your  
17 comparisons were?

18 A. Did I share my damage calculation with them?

19 Q. No. I'm asking when you were interpreting these invoices,  
20 trying to compare apples to apples, did you talk with the  
21 providers like Insight and SIP to tell them, "This is what I'm  
22 doing," and to try to get guidance from the people who were  
23 actually providing you the bills that had actually matched up  
24 with what DigitalNet's bill was?

25 A. Those are subscriptions, monthly reoccurring subscription

1 services, where the services were spelled out in pretty good  
2 detail. No. So, the response is no.

3 Q. So, you didn't talk to them?

4 A. No.

5 Q. Fair enough, sir.

6 THE COURT: So, what's the explanation for it? You're  
7 saying it wasn't necessary?

8 THE WITNESS: Well, with SIP.US we called and  
9 contacted them and tried to obtain historical invoicing  
10 activity and the details, and they wouldn't provide the  
11 details, so there was no reason -- my understanding was they  
12 weren't going to share us details because their relationship  
13 was with DigitalNet.

14 With respect to Insight, we were having conversations  
15 indirectly through the interim IT director with respect to  
16 services that were and weren't being performed and including  
17 the cloud computing and the infrastructure as well as backups.  
18 And we had discussion with my team director, Mr. Meyer, who  
19 indicated that backup wasn't being provided at all, and there  
20 is no evidence that backup was being provided outside of  
21 imaging of two servers that were scans that were done, and that  
22 the other two services with regards to the cloud computing were  
23 being delivered.

24 When DigitalNet was removed from the services it  
25 didn't interrupt delivery of those services in any way from

1 Insight.

2 So, if there were other services it wasn't clear to  
3 John Meyer or my technology consulting team what those services  
4 were in addition to the services listed on the page.

5 THE COURT: Okay.

6 Q. So, let me switch gears on that. I have another question  
7 that's really talking about United Way's IT budget. One of the  
8 things that you did when you were doing your analysis, is you  
9 wanted to get an idea of what United Way's kind of annual IT  
10 expenditures were, right?

11 A. The annual expenditures --

12 Q. For IT, just as their budget.

13 A. Yes. There's the budget set annually that Mr. Alrai was  
14 involved in, yes.

15 Q. Okay. And you took a look both before Mr. Alrai was  
16 involved and after to kind of get a broader picture?

17 A. A thousand-foot view, yes.

18 Q. Yes. Okay. And you would agree with me that there was  
19 one year that was kind of an outlier of, like, \$2,000,000 plus  
20 for a budget, but generally United Way's annual budget was  
21 about \$1,000,000, \$1.1 million, in that area, correct?

22 A. My recollection is generally about there, yeah.

23 Q. And I'm not trying to get to an exact number.

24 A. Yeah, understood.

25 Q. But in general terms.

1 A. It's just a ballpark.

2 Q. And in that regard you would agree with me that during the  
3 time that Mr. Alrai was at the United Way that the budget  
4 stayed in that same area, there were no drastic increases in  
5 the IT budget while Mr. Alrai was there; it maintained that  
6 kind of steady, you know, million-dollar give or take a little  
7 bit?

8 A. My recollection is that the IT group budget grew  
9 significantly before Mr. Alrai's arrival, and it remained  
10 elevated during the duration of his tenure there and grew  
11 slightly from that elevated level.

12 Q. Yeah. So, before he gets there the IT budget elevates,  
13 Mr. Alrai gets there, and then it remains consistent at that  
14 elevated level; is that fair to say?

15 A. It continued to grow at some rate that I don't have in  
16 front of me, but if you have the analysis I'm happy to look at  
17 it. And that's just my recollection from work that was done a  
18 while ago.

19 MR. HARRINGTON: May I just have one moment, Judge?

20 THE COURT: Yes.

21 (Pause)

22 MR. HARRINGTON: Judge, I don't have any other  
23 questions for Mr. Naviloff.

24 THE COURT: Okay. Thank you.

25 MR. HUNTER: Thank you, your Honor.

REDIRECT EXAMINATION

BY MR. HUNTER:

Q. So, Mr. Naviloff, I just want to start with one question. We ended on about how you knew you were comparing apples to apples with the invoices regarding Insight. I think you mentioned you had had a conversation with John Meyer, this is consistent with his trial testimony, that Insight was billing for OVH's services and hosting?

A. That's correct.

Q. Was that one of the assumptions you made in making that apples-to-apples comparison?

A. Yes, yes.

Q. Was it your understanding, again, through those conversations, that they also at one point were providing virtual desktop services --

A. Correct.

Q. -- that DigitalNet was also providing?

A. That is correct, and duplicate billing.

Q. And, likewise, that SIP.US was billing a per-phone-line fee as well as some other fees --

A. Yes.

Q. -- that corresponded to what DigitalNet was billing?

A. A trunk fee as well as per-line fees in SIP.US which were consistent with telephone per-line charges in the DigitalNet agreement.

1 Q. So, in talking about comparing the invoices, you were  
2 asked some questions about the difficulty in comparing the  
3 invoices. I think the way defense counsel put it was because  
4 the DigitalNet invoices don't provide a lot of detail. Do you  
5 remember that line of questioning?

6 A. I do.

7 Q. So, did that require a little digging on your part to dig  
8 into the contracts to figure out what does this line item mean  
9 and what is it providing?

10 A. Well, that's the forensic element that I alluded to. So,  
11 when there's a short description, in this instance we would go  
12 back to the longer description, which was in the service  
13 agreements.

14 Q. So, you looked at the description in the service  
15 agreements trying to see if it lined up with what was in the  
16 invoices, and then, based on that more detailed description in  
17 the service agreements, you would compare that, then, to the  
18 vendors that were actually providing the services?

19 A. Correct. Yes.

20 Q. And so, through that analysis you were able to eliminate  
21 costs for other services, like for, in the instance of  
22 CloudConnect, services DigitalNet provided in building the IT  
23 infrastructure on the platform that CloudConnect provided?

24 A. That is correct.

25 Q. That was billed for separately by DigitalNet?



1 A. That's correct.

2 Q. And just going back to the DigitalNet invoices and their  
3 lack of specificity, you're a forensic accountant, you have  
4 been doing this, and you were saying that they don't have a lot  
5 of detail, made it hard to judge just the invoice that  
6 DigitalNet had; is that right?

7 A. I guess the question is the lack of detail in an invoice?

8 Q. Yeah.

9 A. I would be speculating as to why.

10 Q. I'm not asking you to speculate as to why, sir, but you're  
11 comparing the line item on the Insight invoice to the  
12 DigitalNet invoice?

13 A. Yeah. It's more work, if that was an instance, right?  
14 Now you're talking infrastructure. You needed to know that  
15 infrastructure is a reference for hosting and then go back to  
16 service agreement, so it would take a finance person  
17 considerable more effort.

18 Q. And so, if someone wanted to -- had to approve a  
19 DigitalNet invoice to confirm payment, it would be hard to tell  
20 on the face of the invoice what work was done and whether that  
21 price is justified, right?

22 A. It is more work, yes.

23 Q. And is it fair to say that you might need to rely on the  
24 person who has the relationship with the vendor, in this case  
25 the VP of technology at the company, to say, "Yes, this service

1 was provided"?

2 A. It would be common for finance department to rely on IT to  
3 understand the nature of the services and whether they've been  
4 delivered.

5 Q. Now, you were asked some questions about the separate  
6 forensic team, the data breach team and the servers they had.  
7 Why didn't you request any information from those servers?

8 A. It wasn't relevant to this analysis.

9 Q. Why not?

10 A. We're talking about servers that house databases and  
11 customer databases and credit card information, which has  
12 nothing to do with the issues at hand here.

13 Q. So, you relied on documents that were collected and  
14 eventually reviewed and produced to the government?

15 A. Yeah. User-generated content was key to understanding  
16 what occurred, who knew what when, were others involved. You  
17 know, certainly understanding from a factfinder's perspective,  
18 we don't know who knew what, and part of this is really getting  
19 to the bottom of that and understanding the communications that  
20 occurred during that time period.

21 Q. Regarding the payroll analysis, again, that analysis is  
22 based on payroll records that you received from the U.S.  
23 Attorney's Office through defense through reciprocal discovery,  
24 right?

25 A. That is correct.

1 Q. So, you're working with the best information that we have?

2 A. Well, it's whatever was produced to you is, presumably,  
3 made available to me and it's the basis of my analysis.

4 Q. And one thing that was apparent on that, and we had the  
5 chart up, is that DigitalNet payroll continued even after  
6 Mr. Alrai was fired from United Way?

7 A. Correct.

8 Q. And that would indicate that there wasn't a huge spend on  
9 United Way related IT services in Pakistan; is that right?

10 A. Well --

11 Q. You can explain.

12 A. So, at one point from the slide that I shared there is  
13 over \$800,000 transmitted prior to I believe it was UltPult and  
14 essentially the start of the payroll that ended up occurring or  
15 at least the records for payroll. So, unless there were some  
16 activity over there, which I haven't seen any record of any  
17 workforce in Pakistan, then that money, presumably, would have  
18 sat in an account and would have been available for other  
19 business ventures. The timing of these time sheets,  
20 considering they continued after United Way was no longer a  
21 customer, suggests that there were alternative uses of the  
22 money that went over there.

23 Q. All right. Now, I guess, going back to these invoices and  
24 your analysis, obviously you had to make some assumptions in  
25 lining up the services on the invoices from the contracts and

1 the other vendors; is that right?

2 A. That's correct.

3 Q. And you laid out those assumptions in your testimony and  
4 in your report; isn't that right?

5 A. I did, yes.

6 Q. And so, is that why you did that separate personal  
7 enrichment analysis?

8 A. We have to look at this at two ways, right? I mentioned  
9 in my testimony earlier that looking at this from an analysis  
10 that is focused on only three or four areas has the potential  
11 for a flaw, meaning that the areas I didn't analyze could have  
12 been offered at a loss to DigitalNet. In that instance, then  
13 it really would be misleading to present the numbers that I  
14 presented. So, by tying it to the amount of money when you're  
15 looking at the total amount coming in and the total amount  
16 going out, what's left is essentially the amount of money that  
17 was a loss to -- the maximum amount that would be the loss to  
18 United Way.

19 Q. So, you figured out there's a bunch of money that's just  
20 going into Mr. Alrai's pocket?

21 A. Yes.

22 Q. It's over \$3 million that's not going to any service  
23 provided to United Way?

24 A. Yes, to the best that I can tell, based upon the data  
25 available.

1 Q. Based on the available data?

2 A. Yes.

3 Q. And that's consistent with what you saw in your loss  
4 analysis?

5 A. It's highly -- it's extremely supportive.

6 Q. And I think you testified on direct, like, one of the  
7 things that you were looking at in doing this personal  
8 enrichment analysis is to see whether your assumptions were  
9 supported.

10 A. It was, yes, to support the assumption that other services  
11 weren't performed at a loss, at least break even.

12 Q. So, the services that you gave, the 3.25 --

13 A. Yes, the 3.2 million. Yes.

14 Q. Let me just break this down. So, the issue could be you  
15 carved out \$3.25 million that you assumed DigitalNet provided  
16 value for United Way?

17 A. Correct.

18 Q. And so, the personal enrichment -- and those services  
19 included some of the things that defense counsel talked to you  
20 about: building servers and supporting phone systems and  
21 things of that sort?

22 A. Yes, yes.

23 Q. And so, part of the personal enrichment analysis is to  
24 make sure that DigitalNet wasn't operating at a loss in that  
25 bucket that you assumed provided value?

1 A. Yes, exactly. One hundred percent.

2 Q. But that's not where the hidden value of DigitalNet lied,  
3 was in that \$3.25 million?

4 A. Exactly.

5 Q. Okay. I guess that's another way -- you were talking  
6 about plumbing. That's one way you accounted for the cost in  
7 plumbing?

8 A. The plumbing cost is completely separate, apples to  
9 apples, from what we had done, because, when looking at the  
10 total amount of enrichment it corroborates the amount of  
11 3.1 million minimum amount.

12 Q. And so, to account for the plumbing, and I don't want to  
13 go into all of this again, but you looked at the line items  
14 that DigitalNet was billing for to set up the services?

15 A. Correct.

16 Q. Connect the pipes?

17 A. Correct.

18 Q. And that led you to the \$3.1 million loss figure, when you  
19 accounted for all of that in your financial accounting?

20 A. Correct.

21 Q. And then that was confirmed or supported by the personal  
22 enrichment analysis?

23 A. That's correct.

24 Q. And are these two independent analyses, different  
25 methodologies?

1 A. Certainly different methodologies of approaching the loss.

2 Q. You were looking at two different sets of records?

3 A. Completely separate, yes.

4 Q. So, Mr. Naviloff, you were asked some questions about  
5 building a house in an arm's length transaction?

6 A. Yes.

7 Q. Do you remember that, that line of questioning? So, what  
8 if this supposed house buyer that we've been talking about  
9 hires a trusted agent? He doesn't know much about real estate  
10 and he's new to New Hampshire; he doesn't know all the hidden  
11 taxes and fees that exist in our real estate market. So, he  
12 hires a trusted agent to give him sound advice about real  
13 estate matters and other property, and the agent convinces him,  
14 "You've got to pay \$300,000 for this house," but it turns out  
15 that the agent actually owns the house, which he didn't tell  
16 him, and the house is only worth, you know, 100,000, maybe  
17 250,000, and they reach an agreement, shake hands. Is that an  
18 arm's length transaction?

19 A. No. There's an undisclosed relationship in that, so  
20 there's certainly an element that isn't known to the other  
21 party.

22 Q. Or how about this: What if you hired a trusted agent to  
23 help you navigate the waters of the New Hampshire real estate  
24 market and you're interested in -- there are three or four  
25 houses that you're interested in, and your agent is sitting

1 right there? Let's just assume, for purposes of this analysis,  
2 that they are all worth \$300,000, they all have pros and cons,  
3 but they're all worth the same amount. What you don't know is  
4 that your agent owns one of the houses, and he convinces you to  
5 buy that house. Is that an arm's length transaction?

6 A. Still for the same issue, if there is unknown elements to  
7 the transaction, then it may not be arm's length.

8 THE COURT: What if there's no agent involved, it's  
9 just a deal, buyer and seller, purchase and sale, right, and,  
10 like most home sales, is subject to an inspection and the buyer  
11 asks the seller to recommend an inspection -- let's say subject  
12 to an appraisal or inspection, whatever, the usual terms,  
13 right?

14 THE WITNESS: Yeah.

15 THE COURT: Purchaser says, "Can you recommend  
16 anybody?" And the seller of the house recommends her brother  
17 to do the appraisal and her sister to do the inspection,  
18 doesn't disclose that they're related. But there's no broker  
19 in the middle of the deal. Someone just recommends those two.  
20 What do you think?

21 THE WITNESS: I would say that I would hate to be the  
22 buyer in that situation.

23 THE COURT: Is there a duty to disclose that  
24 relationship on the part of the seller?

25 THE WITNESS: Well, that's a matter of contract and



1 law. I would say in most real estate it's, you know, let the  
2 buyer beware. So, not being a specialist in real estate, I  
3 couldn't answer as to whether there is a duty to disclose. I'm  
4 sure each state has its own laws, and it's a very, very heavily  
5 regulated area.

6 THE COURT: Sure. But you're not willing to say  
7 that's fraud?

8 THE WITNESS: Would I say that that's fraud, referral  
9 and self-dealing? I'm not -- well, I don't attest to what  
10 fraud is.

11 THE COURT: Understood. That's a good point. Okay.  
12 Does it render the transaction, though, less arm's length in  
13 any way to provide an inspector and an appraiser with an  
14 undisclosed relationship?

15 THE WITNESS: If those parties are acting in good  
16 faith and performing in a professional manner -- we do this  
17 every day as consultants, right? We get hired by clients, and  
18 we have attestation clients and we have consulting clients and  
19 we have the concern over conflict, right? If I'm helping an  
20 attest client in a courtroom setting I'm forbidden by my AICPA  
21 regulation and guidelines participating in that. So, it's a  
22 conflict, right, an independent issue? So, some of this is  
23 driven by professional standards, others driven by, I imagine,  
24 laws. I don't know the laws well enough to offer any sort of  
25 advice.

1 THE COURT: Understood.

2 Q. I'm just going to tweak the Court's hypothetical just a  
3 little bit. And let's just say you, again, you've got this  
4 undisclosed relationship between the seller and the home  
5 inspector that hasn't been disclosed, and one of the things  
6 that's most important to you, and you've made this known to the  
7 seller, is that there are certain problems with the house that  
8 are very important that you need to know about, and those  
9 problems exist in the house but they're not disclosed. Would  
10 that impact the fairness or the arm's length nature of the  
11 transaction?

12 A. If there were issues in the house and the inspector knew  
13 that there were issues and the reason that they weren't  
14 disclosed was because of relationships with the seller, that  
15 would be -- is that the scenario?

16 Q. To get the sale to go through.

17 A. Yeah. For me, that would certainly warrant some amount of  
18 loss to the buyer, right? Had they known about that  
19 information, they would have asked for a price concession,  
20 likely, or may not have moved forward with the deal altogether  
21 if there were considerable issues that they found during their  
22 due diligence. So, there's certainly harm, if that's the  
23 question. There's a significant amount of harm.

24 THE COURT: For what it's worth, I don't think my  
25 appraiser or inspector hypotheticals are particularly apt, to

1 be honest. I think the broker one is better on these facts.

2 THE WITNESS: What I can say here is the margins one  
3 would expect from a business, and given that RSM's in this  
4 business of providing technology consulting, generally speaking  
5 the margins on pass-through activity are not at the level seen  
6 here. So, this is certainly, from a pricing perspective, is  
7 strikingly unusual for at least my team looking at these  
8 amounts in the pricing.

9 MR. HUNTER: Nothing further.

10 THE COURT: Recross.

11 RECROSS EXAMINATION

12 BY MR. HARRINGTON:

13 Q. Mr. Naviloff, I think you had indicated the personal  
14 enrichment piece -- was it 3.6 million? I forget the number.  
15 Do you recall?

16 A. 3.7 million.

17 Q. 3.7 million. And that was over the course of the  
18 contracts, roughly? We're talking about six years, roughly,  
19 right?

20 A. That's correct.

21 Q. So, we're talking about 3.7 million over six years. I'm  
22 sure you're good with math. That works out to a little bit, if  
23 we average it out over the six years, to a little over \$600,000  
24 per year?

25 A. Correct.

1 Q. And so, the personal enrichment, another way to look at  
2 that would be profit?

3 A. Yes.

4 Q. And so, my client is essentially profiting a little over  
5 \$600,000 per year, again, we're averaging over the six years,  
6 and that's where that number is kind of coming from. That's  
7 fair to say, right?

8 A. So, the analysis is based upon inflows and outflows from  
9 accounts. Yes.

10 Q. Understood. And I'm taking your number on its face, and  
11 we're just talking about the annual profit would roughly be  
12 about a little over \$600,000 per year, if we average it, right?

13 A. Six years times 600,000 is 3.6 million.

14 Q. And so, I'm just ball-parking it.

15 A. Yeah.

16 Q. I'm not being exact.

17 MR. HARRINGTON: Okay. I have no other questions,  
18 Judge.

19 MR. HUNTER: Nothing further, your Honor.

20 THE COURT: Yeah, I have a couple of questions. I'm  
21 not sure. They are really more for counsel. I just wanted to  
22 consider keeping the witness on the stand. But, no, no, it's  
23 not necessary. You're excused.

24 THE WITNESS: Thank you.

25 (Witness stepped down)

C E R T I F I C A T E

I, Brenda K. Hancock, RMR, CRR and Official Court Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of *United States v. Imran Alrai*, 1:18-r-00192-JL.

Date: 3/26/20

/s/ Brenda K. Hancock  
Brenda K. Hancock, RMR, CRR  
Official Court Reporter